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HOLOCAUST HEARING BEFORE DEBORAH SENN

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INSURANCE COMMISSIONER FOR THE STATE OF WASHINGTON

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Hearing held at

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Fidalgo Room

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Seattle Center

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Seattle, Washington

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1:15 o'clock p.m.

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November 20, 2000

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REPORTED BY:

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ALISON LOTT, RPR, CSR

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A P P E A R A N C E S

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Insurance Commissioner Deborah Senn

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Deputy Commissioner Carol Sureau

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Danny Kadden, Holocaust Survivors Assistance Office

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Marvin Stern, Holocaust Survivors Assistance Office

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GENERALI REPRESENTATIVES

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Christopher Carnicelli, CEO, Generali, US Branch

Marco Schnabl of Skadden, Arps, Slate, Meagher & Flom

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12

ZURICH REPRESENTATIVES

13

David Bowers, Executive Vice-President & General Counsel

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ALLIANZ REPRESENTATIVES

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Peter Lefkin, Senior Vice-President, Fireman's Fund

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Sigurd Borgersen of Schwabe, Williamson & Wyatt

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WINTERTHUR REPRESENTATIVES

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Brian F. Kreger of Ryan, Swanson & Cleveland

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AXA REPRESENTATIVES

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SEATTLE, WASHINGTON; MONDAY, NOVEMBER 20, 2000
1:15 p.m.
--oOo--

COMMISSIONER SENN: I'm Insurance Commissioner Deborah Senn, and this is Carol Sureau, counsel from our office, and we have other staff here today as well.

Welcome to today's rule-making hearing. Under the Holocaust Victims Insurance Relief Act, passed during the 1999 session of the Washington Legislature, the act requires that companies that issued, directly or indirectly through affiliates, insurance policies in Europe between 1933 and '45, are to submit to the Office of the Insurance Commissioner information on such policies, their insureds, beneficiaries, and face amounts, and other listed information.

Under the statute, the Commissioner is authorized -- not required but authorized -- to cooperate with the International Commission on Holocaust Era Insurance Claims, or ICHEIC, as it's known. And this organization was established by a Memorandum of Understanding between insurers and state insurance regulators, including my office, to identify and pay Holocaust claims. The ICHEIC is chaired by former

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Secretary of State Lawrence Eagleburger.

Under the Act, the law authorizes the Commissioner to extend a, quote, "safe harbor" to any

4 insurer so long as that company is participating in the
5 ICHEIC process in good faith, and is working through the
6 International Commission to resolve all outstanding
7 claims with offers of fair settlements in a reasonable
8 time frame. And that language is directly from the
9 statute. Safe harbor is based on the premise that if an
10 insurer is identifying and paying Holocaust Era claims
11 in a timely manner through the ICHEIC, then it is not
12 necessary for that insurer to submit such information to
13 the State of Washington.

14 The act also provides that if the ICHEIC fails
15 to accomplish a mechanism to accomplish identification,
16 adjudication, and payment of insurance policy claims
17 within a reasonable time, that all provisions of this
18 chapter shall come into effect as to any insurer
19 participating in it. Washington law specifies a
20 reasonable time as "January 1, 2000, or such later date
21 as the Insurance Commissioner may establish by rule."

22 Thus, in order for the Commissioner to suspend
23 the law as to any insurer participating in the ICHEIC,
24 the Commissioner must conclude that the ICHEIC itself
25 has established the requisite mechanism to accomplish

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1 identification, adjudication, and payment of insurance
2 policy claims within a reasonable time.

3 Now, we held a similar hearing on January 13,
4 2000, a public informational hearing, to take testimony
5 and comment on the ICHEIC process and insurers'
6 cooperation with it. That was an informational hearing.
7 The hearing today is pursuant to a rule-making process.
8 Comments were invited from the public, members of the
9 ICHEIC, Chairman Eagleberger and the five insurers who
10 participated in ICHEIC. And that, of course, is
11 Allianz, AXA, Generali, Winterthur, and Zurich. Oral
12 testimony was submitted by Mr. Bobby Brown, a member of
13 the ICHEIC representing the State of Israel, and by
14 representatives of the five insurers. Written comments
15 were also received from the companies, from Chairman
16 Eagleberger, from the U.S. Deputy Treasury Secretary,
17 Stuart Eizenstat, Washington State Senator Adam Kline,
18 and Representative Renee Radcliffe.

19 Subsequently, on February 15 of this year,
20 ICHEIC formally announced and began implementing its
21 worldwide claims process.

22 At the January 13 hearing, each of the five
23 companies addressed their efforts to identify policies
24 that could be paid during the ICHEIC claims process.
25 And they reported on the progress that each of those

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1 companies were making to adjudicate and resolve the
2 claims.

3 So I've convened today's hearing to receive an
4 update from the companies to allow this office to make a
5 determination regarding the adoption of a rule extending
6 reasonable time for the extension of the safe harbor.
7 To date, the Office of the Insurance Commissioner has
8 submitted more than four hundred claims from our state's

9 survivors and heirs of Holocaust victims to the ICHEIC.
10 None of these claims have been resolved as yet, despite
11 the 90-day response time indicated in the ICHEIC process
12 guidelines. And one claim has been denied.

13 So we obviously are here today to get an update,
14 in terms of the progress of the companies, and add to
15 some of the information that we asked about in the
16 January hearing. Let me just mention, of course, for
17 the purposes of the record, this is November 20, 2000.
18 And we are in Seattle at the Seattle Center. We have --
19 the way we did this last time is we asked the companies
20 to come forward and each answer questions, and we do
21 have questions prepared.

22 Last time, we had some survivors who came and we
23 tried to get to them last and we never got to them, so
24 what I'd like to do is, be sensitive to the plane
25 schedules. I know that Mr. Bowers -- is he here? There

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1 you are. You have a plane at 4:00? So you have to
2 leave here by 3:00 in order to catch your plane by 4:00.
3 So I'll be very sensitive to the companies' schedules.
4 I know that Mr. Lefkin is going to be late, his plane is
5 just landing.

6 Right now the order we have set out is Generali,
7 Zurich, Allianz, Winterthur, and AXA. So I will start
8 with Mr. Carnicelli, and I think I'll probably interrupt
9 him and go back and finish up Mr. Bowers, and then get
10 back to Mr. Carnicelli, but I think what I'll do for the
11 survivors is maybe intersperse their testimony so that
12 they don't have to wait the whole time.

13 So I'm going to call on one of the survivors to
14 open up, and then I'm going to move to Mr. Carnicelli.
15 I think the first one listed as a "yes" on the
16 testimony, and I'm going to ask the survivors to -- I'm
17 sorry, I'm saying "survivors." I don't know if that's
18 the case with everybody. In terms of public testimony,
19 that may be incorrect. But anybody who is not
20 representing a company -- to try to limit their comments
21 to five minutes.

22 So I'll start with Fred Taucher. Fred? Did you
23 want to say anything?
24
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1 TESTIMONY BY FRED TAUCHER
2 MR. TAUCHER: Yes. Well, all I can say is
3 that I am a survivor. I lived in Berlin all through the
4 war, though I was only six years old when Kristallnacht
5 happened. I do remember my father telling my mother not
6 to worry about all the damage, and the destruction that
7 took place, that he had insurance that would take care
8 of it. Again, I was very young at the time, and I don't
9 know how much insurance money he actually had, or how
10 much insurance he had, but I do know neither my brother
11 or I, who are the only survivors in my family, have ever
12 received one penny.

13 Now, I did visit Berlin, Germany, last April,

14 and I spent about four days trying to research insurance
15 records, as well as other information I didn't have. As
16 far as insurance, I could find nothing, but I did find
17 out dates that I was not aware of. I thought I only
18 went to school the first and second grade, and through a
19 record archival center in Pottsdam, Germany, I learned
20 that I actually went to school for three years, and I
21 also learned, though I didn't know what date it was, I
22 learned that I was arrested April 15, 1945, was shipped
23 to Dachau April 17, and I do know I escaped from Dachau,
24 but I didn't know what day, and I've turned up missing
25 according to the records from the German archives on

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1 April 20.

2 They were going to send me more information --
3 this was all the information I received in Berlin in
4 April. They were going to send me more information;
5 however, sometime in the latter part of May, I received
6 a letter from that archival center, the same center that
7 gave me the computer printout, that there is no
8 information on me or my family. And so needless to say,
9 I don't have any further information, nor do I have any
10 further information on my insurance.

11 COMMISSIONER SENN: Do either of -- my
12 understanding is there's four hundred thousand files in
13 the Berlin archives, property files.

14 (Commissioner Senn confers with
15 Mr. Kadden off the record.)

16 COMMISSIONER SENN: Have you checked any of
17 the archives that had the property?

18 MR. TAUCHER: No, I have not. I do plan to
19 go back sometime in April or May. I have to go to
20 Germany anyhow for business reasons, I have a client
21 there, and I do plan to spend as much time as it takes
22 on my next trip in the spring.

23 COMMISSIONER SENN: Talk to me afterwards.
24 I know someone who knows about four hundred thousand
25 files in the Berlin archives.

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1 MR. TAUCHER: I do not know. I do
2 understand there are archives of insurance policies,
3 which again I did not have a chance to visit, that are
4 located in Cologne, Germany.

5 COMMISSIONER SENN: Really?

6 MR. TAUCHER: And I do have an e-mail
7 address, I have the address and everything, but I have
8 not had any replies. And again, I feel it will require
9 a personal visit.

10 COMMISSIONER SENN: Okay. We'll help you
11 where we can. Thank you.

12 So I think we'll start with Mr. Carnicelli. I
13 have one other person signed up to testify, Martin Birn.
14 Can you wait a few minutes?

15 MR. BIRN: Sure.

16 COMMISSIONER SENN: All right.

17 Mr. Carnicelli, why don't you --
18

19 TESTIMONY BY GENERALI REPRESENTATIVES
20 MR. CARNICELLI: Good afternoon.
21 COMMISSIONER SENN: Good afternoon.
22 Welcome back to Seattle.
23 MR. SCHNABL: Nice to see you again,
24 Commissioner.
25 MR. CARNICELLI: Commissioner, you remember
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1 Marco Schnabl. He was here last time at the hearing on
2 January 13.
3 COMMISSIONER SENN: Yes, I do. Thank you for
4 coming. In the questions that we prepared, the first
5 series of questions we want to ask you, similar to what
6 we want to ask all the companies, we have a little
7 chart, actually, and I wanted to give you a copy of it.
8 MR. KADDEN: I can get one.
9 COMMISSIONER SENN: Can you make one? We
10 just want to get some -- and I think -- and we're going
11 to ask this to all the companies. We want to know the
12 numbers of claims that have been paid, submitted, the
13 status of the claims. So we have a little box here that
14 they actually put together, which has in it claims
15 received, number of offers, average size of offer, the
16 number paid, the total money paid out, claims pending,
17 claims rejected.
18 MR. CARNICELLI: I think I have most of
19 that information.
20 COMMISSIONER SENN: Okay. And we've got it
21 broken down by Fast-Track and regular track. Have you
22 got that?
23 MR. CARNICELLI: I don't have it broken
24 down. I have it in terms of totals. Total numbers of
25 offers, total amount paid.
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1 COMMISSIONER SENN: Okay. So why don't
2 we --
3 MR. CARNICELLI: I could attempt to get you
4 a breakdown. But it's difficult, and the Fast-Track
5 compared to the regular process, I think is --
6 COMMISSIONER SENN: That's kind of merged,
7 hasn't it?
8 MR. CARNICELLI: The processes have merged
9 so it was difficult to break it down that way.
10 MR. SCHNABL: Fast-Track, just to remind
11 the Commissioner of how that expression came about,
12 Fast-Track was a term --
13 COMMISSIONER SENN: You're talking to the
14 TV on that one.
15 MR. SCHNABL: I wish to talk to you, not
16 the TV.
17 COMMISSIONER SENN: You're welcome to. But
18 if were trying to make it a little louder you need to
19 talk into that one.
20 MR. SCHNABL: I'll be happy to raise my
21 voice. The expression Fast-Track came to be the process
22 by which Generali suggested that we start paying claims
23 in the absence of fully agreed upon standards in ICHEIC

24 to get the process going. It turned out that when the
25 claims began being paid, we began paying on the basis of

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1 agreed upon standards. The timing of events was such
2 that we could start paying claims, certain claims, on
3 standards that had been fully agreed. So while a number
4 of claims came under the heading of Fast-Track before --
5 because they were the first ones to be paid, in fact, no
6 claims were -- no requests for payment were ever
7 evaluated under provisional standards. Whenever offers
8 were made, they were made under the accepted ICHEIC
9 standards, and so the distinction between Fast-Track and
10 non-Fast-Track really is not material.

11 COMMISSIONER SENN: All right. So let's
12 start with more aggregate numbers in terms of claims
13 received.

14 MR. CARNICELLI: To date, and these figures
15 I have from our Policy Information Center as of November
16 10, 2000, I don't know if I'll classify them as claims,
17 but the number of inquiries that we've gotten from the
18 Policy Information Center in Trieste, which has been
19 opened for about three years now, is 8,500.

20 COMMISSIONER SENN: So of that 8,500, how
21 would you -- I understand the inquiry, but how many are
22 actual "I believe I have a claim," submission of a
23 claim?

24 MR. CARNICELLI: I think every -- Generali
25 has encouraged people since the beginning even if they

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1 didn't have documentation to apply, so I have a
2 breakdown of the percentages in terms of what we've
3 found. So maybe it's best to --

4 COMMISSIONER SENN: Why don't you go ahead.

5 MR. CARNICELLI: -- to go on that track.

6 COMMISSIONER SENN: Go ahead.

7 MR. CARNICELLI: Of the -- well, first of
8 all, as of November 10, 2000, the Policy Information
9 Center has issued 568 offers. These are offer letters
10 to individual claimants where Generali has located
11 records to indicate a policy. Those 568 offers are for
12 a total of 714 policies, because some individuals have
13 multiple policies. The total offers to date amount to a
14 total of 7.3 million dollars. Of the 7.3 million
15 dollars in offers made to date, 5.3 million has been
16 accepted, and has been paid to individual claimants.
17 There are currently 300 additional offers where the
18 Generali Policy Information Center has located a policy,
19 and is making some final checks with respect to the
20 proper heirs, and additional information, and we
21 anticipate that those offers will be made also shortly.
22 That's an additional 300 to the 568.

23 COMMISSIONER SENN: So an additional 300
24 will be made when?

25 MR. CARNICELLI: As soon as the remaining

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1 information that's needed is compiled. And that's --
2 depends sometimes on the claimant and sometimes on the

3 claims process, the information that we need to
4 determine the claim.

5 COMMISSIONER SENN: Are you covering the
6 Stern family in your 568?

7 MR. CARNICELLI: I don't believe so.

8 COMMISSIONER SENN: So, total money paid
9 out you said has been --

10 MR. CARNICELLI: 5.3 million dollars. And
11 one thing I forgot to mention, too, Commissioner, as you
12 know we've also set up an independent trust in Israel.
13 The numbers I'm giving you now are not including the
14 numbers out of the Generali trust in Israel. That
15 trust, as you know, is governed by an independent board
16 of trustees, and is not controlled by Generali. So we
17 have some verbal numbers, but no confirmed numbers about
18 how many payments and offers have been made out of the
19 Israel trust.

20 COMMISSIONER SENN: What are the verbal
21 numbers?

22 MR. CARNICELLI: We've heard that there's
23 approximately another 200 offers that were made out of
24 the Israel trust; however, I must state it's -- at one
25 point, it was considered that some of the payments were
0017 going to be made out of the Israel trust, so we're
1 unsure if some of those offers overlap with some of the
2 offers made out of Trieste.

3 Then I also had some -- I don't know if it's
4 helpful -- some percentages here of offers and the type
5 of experience where we've gotten so far. I'd be happy
6 to share that with you, and then I also have a breakdown
7 of claimants by country, and also by state.

8 COMMISSIONER SENN: Great. That would be
9 great, because then that would save us from some --
10 asking some questions. Give us what you have.

11 MR. CARNICELLI: Basically, I have these in
12 terms of percentages. So I can give Danny and Marvin
13 some numbers to put by the percentages. But of all the
14 cases examined by the Policy Information Center in
15 Trieste to date, or inquiries to the Policy Information
16 Center, 12 percent of those inquiries have been offers,
17 offers of payment; 62 percent, or the vast majority of
18 inquiries have turned out to be just that, inquiries as
19 to whether or not Generali has a policy or not, and no
20 match has been found in the Generali archives. 7.4
21 percent of the cases are still currently being
22 processed. As you know, we are currently receiving
23 claims from the International Commission, and those are
24 still in the processing stages. 4.5 percent of the
0018 cases are policies which were paid during the Holocaust
1 Era. At this point, no claim has been rejected on that
2 basis. We're waiting for a final confirmation of the
3 International Commission standard that should be applied
4 with respect to those policies. And then, 14.1 percent
5 of the cases of policies are policies which left
6 Generali's portfolio prior to the Holocaust Era, and
7

8 therefore, do not qualify for payment under the
9 International Commission standard as the policies do not
10 have anything to do with the Holocaust Era. And these
11 numbers were as of November 10, ten days.

12 COMMISSIONER SENN: Do you have claims
13 relating to policies issued by present day Generali
14 subsidiaries?

15 MR. CARNICELLI: Do you have any examples
16 of the subsidiaries? Because the majority of the
17 claims, Generali operated through branches in Eastern
18 Europe, so the majority of the claims that have been
19 received have been related to those branches.

20 COMMISSIONER SENN: Deutscher Lloyd in
21 Germany, La France in France, and La Metropol in
22 Belgium.

23 MR. CARNICELLI: I don't have a breakdown
24 of what claims have come from what specific
25 subsidiaries. I can go back to the home office and try

0019 to obtain an answer to that question.

1 COMMISSIONER SENN: Okay. We'd like to
2 know the answer.

3 MR. CARNICELLI: Sure.

4 COMMISSIONER SENN: Have you received any
5 claims relating to policies issued by former Generali
6 subsidiaries in Eastern Europe that fall under the
7 definition Section of 8(a)(2) of the MOU, which is the
8 humanitarian section?

9 MR. CARNICELLI: Well, as I said, Generali
10 operated through branches and not subsidiaries, in
11 Eastern Europe. So all claims would be, as branches,
12 they were Generali. So these claims are being
13 considered. Is your question have any of these claims
14 been unpaid? I think if I could clarify --

15 COMMISSIONER SENN: So the question is,
16 it's not about the branches, it's about the
17 subsidiaries. And have you had any claims relating to
18 policies issued by former Generali subsidiaries in
19 Eastern Europe?

20 MR. CARNICELLI: Not that I know of, but
21 that's -- that will be my inquiry to the home office.
22 My understanding is that there was operation through
23 branches, in Eastern Europe.

24 COMMISSIONER SENN: It's our understanding
25 that there were some subsidiaries in addition to your
0020 branch offices. So if you'll check on that, we'd
1 appreciate that.

2 MR. CARNICELLI: Okay.

3 COMMISSIONER SENN: I want to ask you now
4 about the claims handling procedures. How does Generali
5 go about searching its records when a claim is received?

6 MR. CARNICELLI: Well, Generali, through
7 great effort, computerized all their records onto a data
8 base. I think you may recall from the last testimony
9 that we have face pages of the policies that were issued
10 through the former Generali branches, and we also have
11
12

13 what's called the Stendofina, which are ledgers which
14 show in-force policies at the end of each individual
15 year. So when a claim comes in, we are able to
16 immediately run a search in order to match the
17 claimants' names and family names to the computerized
18 data base in order to come up with potential matches.
19 As you can imagine, since these policies are very old,
20 and names have changed, we've asked the claimants to
21 give us as much information as possible, since we have
22 some information in order to match up the claimants'
23 name and their family records with Generali's records,
24 in order to find -- in order to make sure that if a
25 claimant does have a family member with a policy, that

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1 we're able to find a match.

2 MR. SCHNABL: Commissioner, in other words,
3 absent a situation where the name repeats itself very
4 often, sometimes a common name, we'll find any number of
5 matches in which case we need to go back and be sure
6 that we're talking about the same person. It is
7 relatively prompt. One can relatively promptly
8 determine whether a policy exists. And then, I
9 understand the company has to go back and manually
10 search its records to determine what precisely is
11 payable. What is not computerized are the details. We
12 might have such a payment of premiums, whether the
13 policy was paid during the life of the policy, whether
14 loans were taken. So it is relatively -- and I say
15 relatively -- prompt, to be able to tell the person
16 inquiring whether we have a match in our records, and
17 then we have to guess, if a match is found, and in a
18 sense manually evaluate the information we have in order
19 to determine under ICHEIC standards what offer, if any,
20 to make.

21 COMMISSIONER SENN: I guess what we're
22 looking for is a little bit more detail. For example,
23 you get the claim passed on to you from the ICHEIC, or
24 directly, actually, in some instances.

25 MR. SCHNABL: Mm-hmm, yes, or from a

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1 regulator.

2 COMMISSIONER SENN: You send it to Trieste?

3 MR. SCHNABL: Yes.

4 COMMISSIONER SENN: And what do they do
5 with it?

6 MR. CARNICELLI: The first thing they do is
7 to run the computer search to see if there is a match.

8 COMMISSIONER SENN: Okay. And if there is
9 no match? Is that it?

10 MR. CARNICELLI: No. There are certain
11 pieces of information -- we ask the claimant to give us
12 as much information on names, so that we can run the
13 search. But if no match is found in terms of the name,
14 what I guess I'd call provisional denial is sent out,
15 asking the claimant if there's any other names that they
16 know of, then we can make an additional search.

17 COMMISSIONER SENN: What's a provisional

18 denial, is one of my questions.

19 MR. CARNICELLI: Provisional denial is, I
20 guess I could define it, one particular instance is in
21 the case where the ICHEIC standard has not been
22 enunciated, so we send out a letter to the claimant
23 which basically says we have or haven't found a certain
24 policy, and advise the claimant that the International
25 Commission is coming up with a standard on that type of

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1 policy so he may be -- he or she may be hearing later on
2 in the process, as to the final result. And that's
3 pursuant to the ICHEIC guidelines, that type of letter
4 that goes out.

5 COMMISSIONER SENN: All right. And if you
6 do find a record of policy, then what do you do?

7 MR. CARNICELLI: If we do find a record, as
8 Marco stated, we go back to find the details of the
9 policy to make sure that -- to see if the policy, in
10 fact, qualifies under the International Commission
11 standards. If the policy qualifies under the
12 International Commission standards, we prepare a
13 valuation sheet, along with an offer letter, which goes
14 out to the individual claimant, and the claimant then
15 can see how the valuation is arrived at pursuant to the
16 ICHEIC standards to make a decision as to whether or not
17 he or she wishes to accept the offer.

18 COMMISSIONER SENN: I'm sorry. I think I
19 forgot to do this. Just for the record, would you state
20 both your name and address.

21 MR. CARNICELLI: Sure. It's Chris
22 Carnicelli, and I'm President and Chief Executive
23 Officer of Generali U.S. Branch, at One Liberty Plaza,
24 New York, New York, 10006.

25 MR. SCHNABL: And my name is Mark Schnabl.

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1 I'm with the Skadden Arps firm in New York. The address
2 is Four Times Square, New York, New York, 10036, and I'm
3 counsel for Generali.

4 COMMISSIONER SENN: Thank you. How do you
5 check for variations in the spelling of names?

6 MR. CARNICELLI: I know that they've -- I
7 don't have exactly how they do that at the Policy
8 Information Center, but I know that it is realized that
9 there are permutations in names, and we implement a
10 procedure that to the best of the company's ability
11 we're able to define a match if possible. Nobody tells
12 how they match them.

13 MR. SCHNABL: The methodology is,
14 apparently, very complex. I think we have gotten some
15 help from Yad Vashem on that score. And I do know,
16 although I don't have at my fingertips, the computer and
17 listing methodology they apply but I do know they do not
18 just search for a particular name. They search for a
19 number of variants suggested by a particular name. If
20 you'd like more details, that's not one I was prepared
21 on, and I'm happy to follow up if that's of interest to
22 the Insurance Department.

23 COMMISSIONER SENN: Yeah, actually, it is.
24 Was that same system set up by Yad Vashem?
25 MR. SCHNABL: No, Yad Vashem has its own --
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1 certainly it has -- to my knowledge, the most
2 sophisticated system in existence to do that. We had --
3 COMMISSIONER SENN: Do you use their
4 system?
5 MR. SCHNABL: I don't know -- I don't know
6 whether we use exactly their system, but I do know that
7 there has been some considerable work in the -- in
8 trying to use their experience to help us search beyond
9 the specific name given.
10 COMMISSIONER SENN: We would like the
11 information. There's something called a Soundex system
12 that is used in research that basically does
13 approximation of names. And in fact, in the Jewish
14 community -- I never thought about this, there's
15 something called a Daitch Mokotoff Soundex system. So
16 we need to -- we'd like to know if you're using a
17 Soundex system or a system -- and I do know that the --
18 I've actually -- I think his name is Alex. I have met
19 that gentleman at Yad Vashem that developed the Soundex
20 system for both the names and the communities, the
21 villages, and as I understand, it is very sophisticated.
22 But I'd be curious to know if you're using that.
23 MR. SCHNABL: Certainly -- I know we may be
24 jumping ahead. Certainly, the lists that were generated
25 by Yad Vashem, based on the names we have, were
0026
1 subjected to that -- to their methodology, insofar as
2 trying to find matches of possible Holocaust victims.
3 COMMISSIONER SENN: I think we've asked
4 this question, but let me just make sure that I
5 understand your answer. Does the Generali data base
6 include policy information of subsidiaries --
7 (The proceedings were briefly
8 interrupted.)
9 COMMISSIONER SENN: Let me repeat the
10 question. Did you get it?
11 MR. CARNICELLI: I believe -- again, as I
12 said, I believe it's all through branches, but I'd be
13 happy to follow up and check on that question for you.
14 COMMISSIONER SENN: Okay.
15 MR. CARNICELLI: Are you talking about
16 current subsidiaries or subsidiaries --
17 COMMISSIONER SENN: Either. When a claim
18 is rejected, is a person informed of the reasons for the
19 rejection?
20 MR. CARNICELLI: Yes. Generally.
21 COMMISSIONER SENN: Is there any
22 documentation provided to support the company's
23 position?
24 MR. CARNICELLI: The only reason something
25 would be rejected is if -- is if a claimant applied, and
0027
1 then a match was not found in the data base. In that

2 particular case, there wouldn't particularly be any
3 documentation regarding the claim, regarding policy. So
4 it's just based on the search that we've done under
5 ICHEIC standards in order to locate a policy.

6 MR. SCHNABL: Or, occasionally, there have
7 been certain specific cases where we have had
8 documentation of a policy -- in any event, whatever we
9 find, a decision is made based on information which we
10 then share with a claimant when there is something
11 physically to copy, and copy ICHEIC or the regulator on
12 that correspondence as well.

13 COMMISSIONER SENN: Of the claims that you
14 have rejected -- I don't think you gave me a number of
15 rejected claims, did you?

16 MR. CARNICELLI: I think I gave you the
17 percentages.

18 COMMISSIONER SENN: Is there an appeals
19 process?

20 MR. CARNICELLI: The appeals process is
21 basically through the International Commission, of which
22 we're a founding member, so whatever appeal process that
23 the International Commission sets up -- is in place, the
24 claimant is entitled to avail themselves of.

25 COMMISSIONER SENN: So let me understand.

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1 There is no appeals process in place yet?

2 MR. SCHNABL: The appeals rules are -- were
3 the subject of considerable discussion over the last
4 couple of months. I think we are on the final steps of
5 putting our appeals process in place. Any letter that
6 says here's our offer, or here's no offer, says you
7 should, and are entitled to avail yourself of an appeal
8 on the review process, and you need to let ICHEIC know
9 that that's what you want to do. And I expect that in
10 relatively short order, there will be a final scheme in
11 place to do exactly that.

12 COMMISSIONER SENN: Is there a time on the
13 appeals? Is there a timing on the appeal?

14 MR. SCHNABL: Not until the appeal scheme
15 is in place, of course not.

16 COMMISSIONER SENN: So right now, there are
17 people who have been rejected, they have no place to go
18 for an appeal but the clock is not running yet?

19 MR. SCHNABL: Not to my knowledge, no. The
20 clock will -- when an appeal process is in place, I
21 think there will be a 120-day time frame to, in a sense,
22 perfect the appeal, in the American sense of the word.
23 And -- but it's still not in place. As I said, I expect
24 that to happen in relatively short order.

25 COMMISSIONER SENN: Okay.

0029

1 MS. SUREAU: So when the appeals process
2 does come into play and the 120 days begins to run, will
3 you send out notices to the people who have been denied
4 that the appeal process is now in place and their 120
5 days begins to run?

6 MR. SCHNABL: They can -- they have the

7 letters already, so they are quite -- they can, in fact,
8 send back their intention to appeal right now. In other
9 words, the letters that say here's our offer, or here's
10 our failure to give you an offer, you can -- if writing
11 to this address, you will be in a position to, in
12 effect, perfect your appeal. So although there is no
13 system currently in place, there is the -- we provide
14 the claimants the -- or, the inquirers, because it's not
15 just somebody who, in fact, didn't get an offer, or an
16 offer that he deemed to be insufficient. Somebody says
17 find out if there's a policy we say we can't find,
18 somebody can go appeal that as well. In the
19 correspondence that we provide, with that answer, there
20 is a -- an address where they can write, please write to
21 that address if you wish to appeal.

22 MS. SUREAU: And that's an ICHEIC address,
23 not a Generali address?

24 MR. SCHNABL: That's an ICHEIC address,
25 yes.

0030

1 COMMISSIONER SENN: What I'd like to do,
2 then, we have a specific claim, and we have a letter
3 here, I want to ask you about it. And I'm going to just
4 protect the identity of the claimant. I will tell you
5 that this name, this claimant found a name of a relative
6 on the list, on the match with Yad Vashem, that's about
7 9,000 names, correct?

8 MR. SCHNABL: As of today. May be larger
9 in the near future.

10 COMMISSIONER SENN: Okay, we'll talk about
11 that in a minute. He received a rejection letter, or a
12 status report, okay? So let me read it to you without
13 mentioning the name. Dear sir: We have completed our
14 investigation of your claims and are writing to advise
15 you of our provisional finding pending completion of the
16 independent audits of member companies' claims handling
17 operations being undertaken for the Commission. On the
18 basis of the information you have provided, our
19 investigation has been unable to locate any life
20 insurance policy issued by Generali to -- and it lists
21 the name of the claimant, and then it says, in parens,
22 born in, lists the country and town. Okay? And there's
23 a comma, and then, there are -- there's another name
24 also listing the location and the birth date, but this
25 is not the one on the list, this is just another name

0031

1 that was submitted. And then another name, again,
2 listing the town and the country, and the birth date,
3 but this was not, once again, the one on the list. So I
4 just want to focus on the one on the list, and there's a
5 third one, which has got no country, no birth date. But
6 once again, let's just focus on the one name of the four
7 that was on the list.

8 It says please note that we have considered all
9 the possible spelling variations of these names
10 indicated in your forms. While we cannot predict the
11 outcome of the independent audit, we do not expect it to

12 change our findings on completed investigations in any
13 but exceptional cases. We regret we cannot give you a
14 final decision at this stage. We will write to you
15 again as soon as completion of the independent audit
16 process allows with our final decision on your claim and
17 arrangements for appeal.

18 So, do you recognize that form of a letter?

19 MR. CARNICELLI: Well, the different
20 letters that go out are all individually tailored,
21 depending on the circumstances of the individual
22 claimants. So I wouldn't call that a form letter,
23 but --

24 COMMISSIONER SENN: Well, I meant, do you
25 recognize that?

0032

1 MR. CARNICELLI: Sure.

2 COMMISSIONER SENN: So what you've done
3 here basically is you've said this is a provisional
4 denial. Would that be accurate?

5 MR. CARNICELLI: Actually, on this
6 particular case, I spoke to your office on this
7 particular case, so there actually is another letter
8 which is being sent to the claimant. The reason that
9 this letter was sent out is that there was some -- there
10 was some variation with the data that we received
11 compared to the data that we had, and that letter is
12 going to be sent to the claimant along with an
13 explanation of this letter. Your office quite rightly
14 pointed out that this letter was confusing, and the
15 Policy Information Center in Trieste advised me as early
16 as this morning that another letter is being sent to the
17 claimant as to the specific reasons why this letter was
18 sent down, so the claimant should be receiving that
19 letter, and then the claimant will be given an
20 opportunity to clarify the discrepancies that were found
21 from our data base compared to the information that the
22 claimant provided.

23 COMMISSIONER SENN: Okay. Well, I guess
24 that's good. But I'm concerned that we're not going to
25 be able to call you for every letter that is going out.

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1 And so --

2 MR. CARNICELLI: I would say this is a
3 rare -- I haven't seen that type of form letter very
4 often. Usually there's a very specific description of
5 the reason for a denial. On this particular case, there
6 is a reason, and it's being provided to the claimant,
7 and it will be provided to your office and we can
8 certainly talk about it with Marvin as to the particular
9 reasons.

10 COMMISSIONER SENN: So there is going to be
11 a reason provided for this?

12 MR. CARNICELLI: Yes.

13 COMMISSIONER SENN: Let me ask you this
14 question. This claimant sent in the name of his family
15 member, who matched the name on the list. Did you, for
16 example -- now, let's assume that he just looked at the

17 list. I don't know if he talked to our office, but
18 let's just assume that he looked at the list on his own,
19 and he sent it to you. Did you inquire back to him
20 about possible birth dates, you know, family members --
21 in other words, did you inquire back to him based on the
22 information you have about this name in that locality?
23 In other words, did you sort of prompt him to dig deeper
24 while you dug deeper, I guess is my question.

25 MR. CARNICELLI: The claim was handled out
0034

1 of the Policy Information Center in Trieste, so I'm just
2 relaying information that I have from them. We have
3 certain information regarding the -- regarding
4 claimants, including dates of birth in some cases,
5 sometimes professions, sometimes marital status,
6 sometimes number of children, which would provide
7 evidence as to whether or not the claimants' information
8 regarding their heirs matches up with our data base.
9 And clearly, if a claimant provides information which
10 shows that it matches, then an offer is made, and if
11 there's some discrepancies, then we go back to the
12 claimant and ask for some clarifying information, and
13 then in all reasonableness, if it looks like that
14 claimant is the relative of that particular person and
15 in our data base, an offer is made. And that's the
16 process which is in place for this particular claimant
17 right now.

18 (A discussion was held off the
19 record.)

20 COMMISSIONER SENN: So do you know what's
21 in the letter that's coming to this particular claimant?

22 MR. CARNICELLI: I haven't seen it. But
23 you should -- you should have it within the next --
24 certainly within the next several weeks. Just to give
25 you an example, if a claimant -- there are circumstances

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1 where our records -- and just to give a generic example,
2 a claimant will advise that the particular insured is
3 married or unmarried with a particular amount of --
4 number of children, and if that doesn't match up with
5 the information that we have, then certainly, it's
6 reasonable to question whether the claimant is actually
7 the -- matches up with the particular heir, and at that
8 point, we give the claimant an opportunity to provide
9 additional information which would show whether or not
10 the claimant is, in fact, entitled to an offer of
11 payment.

12 COMMISSIONER SENN: Well, I'm looking at
13 this claim form, and it has a lot of family information,
14 you know, that the claimant was unmarried, you know, who
15 his family members are, what concentration camp they
16 went to. So it seems to me that, you know, on your
17 policies, you have some familial information about
18 people, if you look through this you can match it up.
19 But I guess how do we know what you found or didn't
20 find, other than just this letter that basically is a
21 straight rejection letter?

22 MR. CARNICELLI: Well, the follow-up letter
23 that I described will hopefully provide the claimant
24 with information as to what we found and didn't find,
25 and then provide the claimant with an opportunity to

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1 provide additional information which would clarify
2 whether or not that's the -- the right claimant for that
3 particular policy.

4 COMMISSIONER SENN: Okay. And I'm sorry,
5 you said you had the letter -- the information with
6 you --

7 MR. CARNICELLI: I don't have the letter
8 or -- I don't have the letter, but we should get the
9 letter shortly, and I can call Danny or Marvin and get
10 their take on it, as soon as we receive it.

11 COMMISSIONER SENN: Okay. And you know
12 that under our law and WAC's, when there is a denial or
13 rejection, that the law does require a reason. So we
14 need to see letters with reasons.

15 MR. CARNICELLI: Yes.

16 COMMISSIONER SENN: Now, let me ask you,
17 when the record shows a policy in a certain country was
18 paid during the Holocaust, how do you handle that claim?

19 MR. CARNICELLI: Was paid during the
20 Holocaust? Right now, a letter goes back to the
21 claimant, from what I understand, advising that we're
22 waiting for a final ICHEIC determination as to the
23 valuation for that particular circumstance, and then
24 once that standard is set, then Generali intends to of
25 course comply with the standard.

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1 COMMISSIONER SENN: How many of those have
2 you had?

3 MR. CARNICELLI: I think you'll remember I
4 mentioned in the original, 4.5 percent of cases.

5 COMMISSIONER SENN: Yes, I do. So those
6 people got letters basically stating what you just said?

7 MR. CARNICELLI: Yes, that's my
8 understanding.

9 COMMISSIONER SENN: What is the status of
10 Generali's ICHEIC mandated audit process? You referred
11 to the audit process. Where is that?

12 MR. SCHNABL: It is -- my understanding is
13 it's not yet concluded. It's in the process.

14 COMMISSIONER SENN: It's in the process?

15 MR. SCHNABL: Yes. Yes.

16 COMMISSIONER SENN: Is there a date that
17 you expect to be done with it?

18 MR. SCHNABL: I am happy to inquire from
19 Trieste. I don't have that off the top of my head.

20 COMMISSIONER SENN: All right. So you'll
21 get back to us on that. All right.

22 We're going to go for another fifteen, and then
23 we're going to take Mr. Bowers. But we're about halfway
24 through yours, so we're making pretty good progress.
25 This past weekend, in the papers, there was a mention of

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1 a global agreement that Generali had entered into
2 pending approval of the Commission. Could you describe
3 the agreement, the terms, the parties, the date, and who
4 agreed to what?
5 MR. CARNICELLI: Okay. Well, I wasn't in
6 Rome when the -- when this agreement came out, but my
7 understanding is that we're pleased to announce that
8 we've come to an agreement with the various Jewish
9 organizations, and with the International Commission, in
10 order for -- and the basic terms of the agreement is
11 that Generali will provide an additional hundred million
12 dollars which will be used for claims, certainly, and
13 for humanitarian purposes, and Generali pledged its
14 cooperation and commitment to the International
15 Commission process, pursuant to which we're paying the
16 claims, and that's -- those are the basic terms of the
17 agreement. So we are -- we're certainly pleased with
18 the progress of the claims. We think that Generali has
19 been at the forefront of claims payments, and we will
20 continue to pledge our support and cooperation to the
21 process and continue to pay claims as we have been for
22 the last year.

23 COMMISSIONER SENN: Did ICHEIC approve this
24 agreement officially last week?

25 MR. CARNICELLI: My understanding is that
0039 they did, yes.

1 COMMISSIONER SENN: Can you supply us with
2 a copy of the agreement?

3 MR. CARNICELLI: I think you probably have
4 to ask ICHEIC for a copy of that. I don't have a copy
5 of that, so I think that inquiry is probably more --

6 MR. SCHNABL: We would prefer if you
7 directed the inquiry to Secretary Eagleburger, because
8 we are one of the participants, and we would be loathe
9 to have other participants in ICHEIC distribute to the
10 world their own versions, and I respectfully request --
11 and I'm sure the request would be honored -- that it be
12 directed to Chairman Eagleburger, for him to provide a
13 copy.
14

15 COMMISSIONER SENN: You said there's a
16 hundred million dollars paid -- or, agreed to. Does
17 that include administrative costs for the claims
18 process?

19 MR. SCHNABL: It includes -- the interest
20 on a hundred million dollars will be used by ICHEIC to
21 fund its own costs. Generali will continue to be a
22 member of ICHEIC, and to the extent there are costs
23 associated with investigating and valuing claims
24 expended by Generali, those are at Generali's expense.
25 They're not included in those hundred million dollars.

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1 COMMISSIONER SENN: Exactly what entity
2 will actually handle Generali claims under this
3 agreement?

4 MR. SCHNABL: The agreement provides that
5 ICHEIC, at its discretion, may appoint an Implementing

6 Organization to evaluate and to pay claims, Generali
7 claims. Until such an organization is, in fact,
8 appointed by ICHEIC, Generali will continue as it has in
9 the past to evaluate and to make the payments, as in the
10 past.

11 COMMISSIONER SENN: I thought that ICHEIC
12 had a claims process.

13 MR. SCHNABL: ICHEIC has a set of
14 standards. It has a -- an organization in England which
15 does an initial distribution of claims, or inquiries to
16 the various companies. But ICHEIC does not determine in
17 the first instance, or indeed, in any context except in
18 the review process, by its appellate mechanism, what a
19 claim is worth, and whether it ought to be paid. For
20 that you need the records such as they may exist of the
21 company. So ICHEIC itself does not, in a sense,
22 evaluate the claims. They have a center where the
23 inquiries come, where they follow up with claimants, or
24 inquirers, to get more information, and then distribute
25 the information they get to the various companies where

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1 it should be --

2 COMMISSIONER SENN: So if I sent a claim to
3 ICHEIC, which we have, Generali claims, they forward it
4 to you?

5 MR. SCHNABL: If they determine that it is
6 a Generali inquiry, they send it to us. But understand,
7 Commissioner, that the vast bulk of the inquiries are
8 along the lines of, I understand my family had a policy
9 in Eastern Europe, and I don't know with whom it is.

10 COMMISSIONER SENN: I understand. But we
11 have sent Generali claims, and --

12 MR. SCHNABL: Then it goes to us, yes.

13 COMMISSIONER SENN: Then it goes to you?

14 MR. SCHNABL: Mm-hmm.

15 COMMISSIONER SENN: So tell me, then, under
16 this agreement, what is going to be different? Is there
17 going to be a different entity that they send it to or
18 it gets sent to or --

19 MR. SCHNABL: No. Until and unless what
20 the agreement calls an Implementing Organization is
21 appointed, the process will continue as before. We will
22 continue to investigate the claims, and we will continue
23 to do what we have been doing in the past, paying
24 claims, and receiving credit against the hundred million
25 dollars in this agreement.

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1 COMMISSIONER SENN: Tell me again what the
2 Implementing Organization does.

3 MR. SCHNABL: That is subject to an
4 agreement with such an Implementing Organization in the
5 future as ICHEIC may wish to enter. But it is
6 essentially an organization intended to investigate with
7 our archives, and to pay Generali claims. In other
8 words, if it is possible to put in place an organization
9 to evaluate and pay these claims other than the company,
10 to enhance the -- both cosmetic and perceived and real

11 fairness of a process, then ICHEIC may very well do
12 that. But it is not a condition or a -- or a sure bet
13 that that will happen. I think they will, because they
14 have been looking, for example, at the Trust that
15 Generali had put in place in Israel, which is staffed by
16 an independent board as a paying, Implementing
17 Organization, in part, because of a desire to make
18 Israel the locus of payments for these claims. So
19 ICHEIC may or may not appoint such an entity. But until
20 such an entity is appointed, we will continue to
21 evaluate and pay the claims as we have in the past.
22 There will be no change in that sense.

23 MS. SUREAU: And if an Implementing
24 Organization is put into place, where would the cost of
25 that organization come from?

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1 MR. SCHNABL: It would come from the
2 interest on the hundred million dollars ICHEIC would
3 have to share with that organization pursuant to any
4 arrangement that ICHEIC may care to enter into. The
5 interest on a hundred million dollars, the agreement
6 makes very clear that the hundred million are
7 untouchable, principal so to speak, of that corpus, goes
8 to pay humanitarian claims and Generali policy claims,
9 and can't be touched for any expense purposes.

10 MS. SUREAU: Thank you.

11 COMMISSIONER SENN: So once again, the
12 hundred million is for either humanitarian or payout of
13 claims, period?

14 MR. SCHNABL: Mm-hmm, yes.

15 COMMISSIONER SENN: Nothing else? Do you
16 know if the Stern family claim is included in the
17 hundred million?

18 MR. SCHNABL: No, it is not. No payment
19 made by Generali before July 1, 2000, is included. The
20 Israel Fund is not included, the commitments made by
21 Generali to ICHEIC for expenses in the past, and I think
22 deposited in something called a Bermuda Fund, are not
23 included.

24 COMMISSIONER SENN: What about lawyers'
25 fees?

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1 MR. SCHNABL: Not included either.

2 COMMISSIONER SENN: So any lawyers fees
3 arising out of the class action suits --

4 MR. SCHNABL: We are committed to keep on
5 paying for those litigations.

6 COMMISSIONER SENN: How much of the hundred
7 million will be for the humanitarian share?

8 MR. SCHNABL: That is a -- at this time, I
9 can tell you that it will at least be fifteen million,
10 because we have agreed to allow fifteen million to be
11 expended immediately for humanitarian purposes.

12 COMMISSIONER SENN: Really?

13 MR. SCHNABL: Yes.

14 COMMISSIONER SENN: To where does it go?

15 MR. SCHNABL: As ICHEIC shall determine.

16 Nothing for Generali to say. I presume that that will
17 be determined between ICHEIC and the Jewish
18 organizations. Whatever else goes to humanitarian
19 payments will be, in a sense, what is there -- what is
20 left there after the payment of claims. So I can't tell
21 you how much there might be, or for what it might be
22 applied.

23 COMMISSIONER SENN: Danny, you can ask your
24 questions.

25 MR. KADDEN: We've struggled in the past
0045

1 to try to understand the definition of humanitarian. I
2 just wanted to clarify one thing. However -- whatever
3 the final amount will be, a minimum fifteen million, is
4 that earmarked for the general humanitarian uses,
5 defined in I think it's 8(b) of the MOU, or for the
6 other humanitarian uses which -- of the 8(a)(1) and
7 8(a)(2) sections?

8 MR. SCHNABL: Again, it is truly not a
9 question solely of nomenclature. Given the nature of
10 the claims in Eastern Europe, as you know, Generali has
11 always taken the position, which is entirely consistent
12 with the MOU, taking all payments for Eastern European
13 policies, which have been nationalized, are, in a sense,
14 humanitarian payments, because in effect, those policies
15 were taken over by the Eastern European government. So
16 a simple way to think about this is to say, for purposes
17 of the hundred million, claims are documented Generali
18 claims. Everything else is humanitarian in the sense in
19 which I have been using that term, and it certainly is
20 8(b), and 8(a)(2). But an easier way to think about it
21 is, because that is the way in which both Generali, and
22 I think fairly speaking, the Jewish organizations have
23 been thinking, is -- we first pay those who can show
24 they had, in their family, a Generali policy. When
25 that's done, in the ICHEIC process. We then use the

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1 remaining moneys for humanitarian purposes, however you
2 define it, once those first priorities are exhausted,
3 are paid.

4 COMMISSIONER SENN: I'm not sure I
5 understand. You got a hundred million, and ICHEIC is
6 about to spend fifteen million on humanitarian, and then
7 you get claims in from Eastern Europe, and that fifteen
8 million is gone, then you're going to use the 85
9 million, a portion of the 85 million, but you're going
10 to call it humanitarian when you make the payment?

11 MR. SCHNABL: No. You're going to use the
12 moneys to pay the claims made, or the claims presented,
13 that are shown to have resulted in the finding of
14 policies that can support those claims, the documented
15 claims.

16 COMMISSIONER SENN: Right.

17 MR. SCHNABL: Once that is paid, once
18 there's assurance that those claims have been paid or
19 provided for, the rest of the moneys are, in effect,
20 available to the Jewish side to use as they see fit

21 within the scope of the ICHEIC MOU.

22 COMMISSIONER SENN: But you've told me that

23 there have been 568 offers. Of those 568, how many of

24 them were from Eastern Europe?

25 MR. CARNICELLI: Virtually all of them.

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1 COMMISSIONER SENN: Right. So if they were

2 all from Eastern Europe, and you argue that Eastern

3 Europe was nationalized; therefore, all those payments

4 come out of what you call, under the MOU, the

5 humanitarian fund, right?

6 MR. SCHNABL: Right. And that's why I

7 corrected, I said it's better to think in terms of

8 answering your question by humanitarian under the

9 agreement, I mean any use of a fund, other than to pay

10 documented claims.

11 COMMISSIONER SENN: Of the 568, those are

12 documented claims?

13 MR. SCHNABL: Right.

14 COMMISSIONER SENN: You're just not calling

15 them, that you're legally liable, because they're from

16 Eastern Europe. But they're documented claims?

17 MR. SCHNABL: Right.

18 COMMISSIONER SENN: Therefore, I mean, can

19 you cite to me any claims that aren't from Eastern

20 Europe? I mean, in essence, every claim that you pay

21 is, quote, humanitarian, under your definition?

22 MR. SCHNABL: Correct. But the agreement

23 provides that except for the fifteen million dollars,

24 which can be made available to pay other than documented

25 claims immediately, the funds will be kept in place, so

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1 to speak, first to pay, however you call them,

2 documented claims, because those are the ones who really

3 should have priority.

4 COMMISSIONER SENN: Let me back up. So the

5 fifteen million is for other than documented claims. So

6 is it for those people who think they have a Generali

7 claim, but don't have documentation, or is it for

8 whatever that Jewish organization deems to --

9 MR. SCHNABL: Whatever ICHEIC and the

10 Jewish organizations may, within the context of the MOU,

11 agree to spend those moneys on. In other words,

12 respectful -- you were asking those who put up the

13 money, but we're not those who make the decision on how

14 those moneys get spent with in the context of the MOU

15 and ICHEIC's charter, so to speak. They will decide how

16 they use that money.

17 COMMISSIONER SENN: If the fund is

18 depleted, and additional valid claims remain

19 outstanding, and I mean documented claims, will Generali

20 commit to honoring those claims?

21 MR. SCHNABL: We have said that we will

22 look at it at that time, and we will make a decision

23 appropriate to the circumstances at that time. But this

24 agreement operates, in fact, as a cap on the exposure of

25 Generali.

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1 COMMISSIONER SENN: Let me understand, as
2 part of this agreement, do you get what some have called
3 legal peace?

4 MR. SCHNABL: What we get as part of this
5 agreement, in addition to -- and hopefully that's the
6 most important, the opportunity to mend fences and move
7 ahead and sort of achieve peace with the Jewish
8 organizations and an opportunity to move forward, we get
9 the commitment of ICHEIC to assist us in obtaining from
10 the U.S. government a writing of some kind similar to
11 the "Statement of Interest" provided in the context of
12 the German Foundation Initiative, and that's what we --
13 in effect, that is all we get under this agreement.

14 COMMISSIONER SENN: A "Statement of
15 Interest" to be used when and where and how?

16 MR. SCHNABL: To be used in litigation or
17 administrative proceedings that might be pending or
18 filed in the future against Generali.

19 COMMISSIONER SENN: And what does the
20 Statement of Interest say?

21 MR. SCHNABL: Since I won't be giving that
22 Statement of Interest, it's difficult to predict what it
23 might say, but I expect it might say that it is in the
24 foreign policy interest of the United States that
25 Holocaust Era disputes about policies be resolved in the

0050

1 ICHEIC context, rather than a different forum. But I
2 cannot predict what the U.S. government will or will not
3 provide. What we have obtained is ICHEIC's best efforts
4 to assist us in getting such a statement.

5 COMMISSIONER SENN: Is this statement a
6 deal breaker? I don't think the U.S. government signed
7 this agreement, and you said ICHEIC has approved it?

8 MR. SCHNABL: It is a condition for the
9 disbursement of the the moneys that the U.S. government
10 give us a statement generally of that nature. In
11 fact -- let me say that, I'm not the one to ask what the
12 U.S. government will or will not do, but I will point
13 you to the statement of Deputy Treasury Secretary
14 Eizenstat, who expressed his support and consistent
15 position that ICHEIC should, in fact, be the forum in
16 which these matters are resolved. That is not the
17 statement of interest, as you understand, but I am
18 hopeful that that's something the U.S. government will
19 be prepared to do, because they have said in the past
20 that they would.

21 MS. SUREAU: So you said that the condition
22 for the disbursement of the funds is this "Statement of
23 Interest." Does that apply to the fifteen million that
24 you said is being disbursed?

25 MR. SCHNABL: Yes.

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1 MS. SUREAU: Does it apply to the offers
2 that have already been made, the 568 offers?

3 MR. SCHNABL: No, we will continue to pay
4 offers irrespective of this agreement. And if it's --

5 as I said before, if it comes into effect, if the moneys
6 are available for disbursement, we will get credit
7 against it. If it is not because the U.S. government
8 for some reason doesn't want to give a "Statement of
9 Interest," we will continue to pay these amounts going
10 forward as we have in the past.

11 COMMISSIONER SENN: Two quick questions,
12 and then let's go to Mr. Bowers. Deutscher Lloyd is a
13 subsidiary of Generali currently?

14 MR. CARNICELLI: Again, I have to find that
15 information for you.

16 COMMISSIONER SENN: Okay. We would like to
17 know that, and how your subsidiaries will be impacted by
18 this.

19 MR. SCHNABL: Let me say, without answering
20 that question, because I don't know the answer, but if
21 it is a German subsidiary, it would presumably be
22 covered by the German Foundation arrangement, rather
23 than by the arrangement we have here. And this does not
24 affect any payments that might be made under the German
25 Foundation Initiative. I do know, without answering the

0052

1 question you've posed, that our German -- current German
2 affiliate has been asked for a considerable contribution
3 to the German Foundation Initiative, and has made that.
4 And policies that may be covered by the German
5 Foundation do not affect these hundred million dollars,
6 and won't be paid out of these hundred million dollars.

7 COMMISSIONER SENN: Who is your current
8 German affiliate?

9 MR. SCHNABL: An entity called AMB.

10 COMMISSIONER SENN: AMB?

11 MR. SCHNABL: Yes.

12 COMMISSIONER SENN: That stands for --

13 MR. CARNICELLI: You don't want to hear us
14 say it.

15 COMMISSIONER SENN: Is it German or
16 Italian?

17 MR. CARNICELLI: German.

18 COMMISSIONER SENN: Can you write it down?

19 MR. CARNICELLI: Sure. I can give it to
20 Danny or Marvin after the hearing.

21 COMMISSIONER SENN: You can spell it into
22 the record. How's that? Go ahead and spell it.

23 MR. CARNICELLI: I don't have the spelling
24 right here. I can give it to Danny or Marvin as soon as
25 we're done.

0053

1 COMMISSIONER SENN: All right. Why don't
2 we take a break, thank you, and we'll have Mr. Bowers
3 come up.

4 Would you state your name and address for the
5 record.

6

7 TESTIMONY BY ZURICH REPRESENTATIVE

8 MR. BOWERS: My name is David Bowers. I'm
9 the Executive Vice President, General Counsel of Zurich

10 U.S. Group, which is the commercial property casualty
11 insurance arm of Zurich Financial Services in the United
12 States. My address is 1400 American Lane, in
13 Schaumburg, Illinois.

14 COMMISSIONER SENN: Carol is going to
15 address the questions to you, Mr. Bowers. Thank you for
16 coming.

17 MS. SUREAU: Hi, Mr. Bowers. I'd like to
18 take you through basically the same questions as to the
19 nature of Generali representatives, the status of claims
20 for each of the Zurich subsidiaries, Vita Life, and
21 Agrippina. Are those subsidiaries of Zurich?

22 MR. BOWERS: Those are the two subsidiaries
23 of Zurich that are involved in this particular matter,
24 yes.

25 MS. SUREAU: Beginning with Vita Life, can
0054 you tell us how many claims have been received by that
1 organization?

2 MR. BOWERS: I'll have to give it to you
3 in the aggregate. I don't have a split between those
4 two companies.

5 MS. SUREAU: So for both Vita Life and
6 Agrippina?

7 MR. BOWERS: Right. It's my understanding
8 that in the so-called Fast-Track procedure, we received
9 four claims, and three were determined not subject to
10 those companies, not issued by those companies, and one
11 is pending further investigation. I cannot give you the
12 status of that investigation, but there has been no
13 final determination made on that fourth claim. In terms
14 of the so-called regular claims, not in the Fast-Track
15 procedure, Zurich has received a total of 37 claims, 20
16 of which I just -- I understand were just received
17 within the last week or so. Of the seventeen that have
18 been analyzed, fifteen did not involve those companies
19 in any way. I believe most of them came from Eastern
20 Europe, which those companies were not involved in that
21 marketplace. And the remaining two of the seventeen are
22 still under investigation, and no final determination
23 has been made.

24 Where determinations have been made, in all but
25
0055 one case, Zurich responded within the 90-day time frame
1 as required. It's my understanding also that there are
2 2,000 unnamed company claims which are -- have been
3 provided to Zurich after a search of the companies'
4 records. None of those were deemed to be related to
5 Zurich.

6 MS. SUREAU: How did you make that
7 determination?

8 MR. BOWERS: By a search of the company
9 records. Zurich -- far before this matter came to the
10 attention of regulators and other authorities, Zurich
11 had made an extensive inventory of its claims, or of its
12 policies, and through a process of comparing the
13 information submitted by the International Commission
14

15 against its policy data base, made the determination
16 that these claims or policies did not relate to Zurich.
17 MS. SUREAU: When you say policy database,
18 does that mean that your records from this period are
19 computerized?

20 MR. BOWERS: It's my understanding that
21 there is some computerization, yes. I cannot tell you
22 to what degree the data is computerized, so to speak.

23 COMMISSIONER SENN: Let me just -- so I
24 understand, the 37 claims you received on the regular
25 track were Zurich claims or Vita Life or Agrippina? I
0056

1 mean, was there a Zurich back then?

2 MR. BOWERS: They're believed to somehow
3 relate to Zurich. There was some suspicion or belief
4 that these claims related to Zurich. As I said, 20 of
5 them, we've not analyzed because -- or, have just
6 started the analysis. So it's really only 17 that have
7 been analyzed against the database, and two of those,
8 the analysis is not completed to the extent that a
9 decision could be made.

10 COMMISSIONER SENN: But was there an entity
11 named Zurich selling insurance pre-World War II?

12 MR. BOWERS: Yes, in the name of the
13 companies that you've just mentioned, yes. They were
14 part of the Zurich group.

15 COMMISSIONER SENN: So nobody could buy
16 just Zurich insurance, you had to get either Vita Life
17 or Agrippina?

18 MR. BOWERS: That's correct. Again, those
19 two companies comprised one-tenth of one percent of the
20 market in Europe, and six-one-hundredths of a percent of
21 the German or German occupied countries. So when any
22 claim is submitted, there is one in a thousand chance
23 that it relates to Zurich, just extrapolating from the
24 market share.

25 MS. SUREAU: Could you describe for us
0057

1 Zurich's claim handling procedures. You get a claim in,
2 and what are the procedures, the process through which
3 it goes?

4 MR. BOWERS: It's my understanding that
5 the information that's submitted is compared against the
6 database to determine whether there is any information
7 at all that compares with the information in our
8 database. If there is a need for additional
9 information, that request is made of the claimant in an
10 attempt to make sure that all data points that could
11 possibly be relevant to this claim, and be relevant to
12 our database, are touched.

13 MS. SUREAU: So for instance, you get a
14 name of a claimant. Do you go through the name
15 variation checks that were discussed earlier with
16 Generali?

17 MR. BOWERS: Yes. It's my understanding
18 that a similar procedure is followed. I can't tell you
19 the details of that procedure or whether that's -- it's

20 identical to Generali's, I doubt it, but there is some
21 attempt to take all possible extractions of that name,
22 and determine whether or not it relates to the one
23 that's in our database.

24 MS. SUREAU: And you apply ICHEIC standards
25 in this claims processing?

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1 MR. BOWERS: Whatever ICHEIC standards are
2 now in place, it's my understanding that they are
3 applied by Zurich in this process, yes.

4 MS. SUREAU: Okay. So is it my
5 understanding -- I believe that you've told me, I just
6 want to check if that's correct -- that Zurich has made
7 no offers on claims submitted through ICHEIC? Is that
8 correct?

9 MR. BOWERS: There are several instances
10 where it does not have the requisite information to make
11 an offer at this time, but the ones that have been
12 submitted, all but several, there have been final
13 determinations made that no offer is appropriate, yes.

14 MS. SUREAU: I want to refer back to some
15 testimony that was given in the January hearing last
16 year. Mr. Raives apparently testified that of the four
17 Fast-Track claims, three had been rejected as not being
18 related to Zurich and the fourth was still under
19 investigation. That fourth claim, of the four that were
20 testified about last January, it's our understanding
21 that this claim is still pending?

22 MR. BOWERS: Yes.

23 MS. SUREAU: Would you be able to tell us
24 why that is? It seems a long time.

25 MR. BOWERS: I agree with you it's a long
0059

1 time. I can't tell you why. I only assume that
2 additional information has been sought from the
3 claimant, and not received.

4 MS. SUREAU: And that's an assumption?

5 MR. BOWERS: That's my assumption, yes.

6 MS. SUREAU: Would you be willing to check
7 on the status of that claim and give us some information
8 as to why the claim is still pending and has not been
9 resolved?

10 MR. BOWERS: Yes. I asked that very
11 information and what I told you is the answer I received
12 from our home office, but I'll certainly inquire
13 further.

14 MS. SUREAU: I would appreciate it. That
15 is not a very satisfactory answer, as I'm sure you can
16 appreciate. So if we could have some factual
17 information as to exactly what is missing from the
18 claim, what remains to be resolved, whether it's the
19 claimant that has not been responsive, et cetera, that
20 kind of information would be helpful.

21 MR. BOWERS: Certainly.

22 MS. SUREAU: Thank you. And will you
23 provide that without a further request from our office?

24 MR. BOWERS: Yes.

25 MS. SUREAU: Great. Thank you. And could
0060
1 I ask you, what is Zurich's position with regard to
2 policies that were confiscated?
3 MR. BOWERS: Most of the confiscated
4 policies at issue here do not relate to Zurich. Zurich
5 was not involved in that market in which the
6 confiscations occurred. As I understand it, there were
7 16 confiscated policies that were alleged to be
8 attributed to Zurich, and we determine that at least ten
9 of those did not relate to Zurich. And those -- of the
10 balance of the six, I'm not sure what the status is of
11 those, but I can inquire further.
12 MS. SUREAU: Please. And it's possible for
13 me to draft a letter noting all the things that we have
14 agreed on today, that you will provide at a later time.
15 If that's necessary, please let me know.
16 MR. BOWERS: You don't have to do that.
17 I'll provide it.
18 COMMISSIONER SENN: Mr. Bowers, in the
19 testimony of Mr. Raives in January, we talked about the
20 list of names that was in the possession of Zurich, and
21 he told us, or maybe it was you, that there were 22,000
22 policies that -- issued by Zurich during that period; is
23 that correct?
24 MR. BOWERS: I recall that testimony, yes.
25 COMMISSIONER SENN: And I believe I asked
0061
1 you at the time -- at the time you said there were 16
2 confiscated accounts. Are you using the term
3 confiscated the same as blocked accounts?
4 MR. BOWERS: No. I think there is a
5 distinction between blocked accounts and confiscated
6 policies. My understanding is that the blocked accounts
7 are -- have basically been reduced to a -- some sort of
8 a financial transaction, and we cannot trace the
9 policies relating to the so-called blocked accounts.
10 Confiscated policies, as I understand it, are a
11 different matter.
12 COMMISSIONER SENN: Well, on Page 128 of
13 the transcript I said, Of the 22,000 policies, how many
14 are unpaid? And you -- Mr. Raives said non-Holocaust
15 related, question mark, I'm sorry I don't have that
16 figure. I'm sure I could get it for you. And I said
17 why don't you get it for us and I would be happy to --
18 so what is the answer to that question? Do we have that
19 information?
20 MR. BOWERS: Of the 22,000 policies how
21 many are unpaid?
22 COMMISSIONER SENN: Mm-hmm.
23 MR. BOWERS: I don't have that information.
24 COMMISSIONER SENN: Did they ever supply
25 it?
0062
1 MR. STERN: 22 unpaid policies.
2 COMMISSIONER SENN: 22? So only 22 are
3 unpaid, and those are the 22 that you supplied to the

4 ICHEIC for publication?
5 MR. BOWERS: Correct.
6 MR. STERN: And 16 confiscated.
7 COMMISSIONER SENN: 16 confiscated. And
8 did we come up with an understanding of their definition
9 of unpaid?
10 MR. BOWERS: I assume that we have no
11 record of any payment whatsoever related to those
12 policies.
13 COMMISSIONER SENN: Okay.
14 MS. SUREAU: To return to the question of
15 confiscated, it is our information that -- at any rate,
16 Mr. Raives testified last January that Zurich had
17 identified 16 confiscated policies. So in what sense
18 are we to understand that word? I mean, now you say
19 that there's a distinction between blocked and
20 confiscated. Could you clear up my confusion as to
21 whether these 16 involved blocked accounts or were these
22 confiscated policies?
23 MR. BOWERS: I was told by the Swiss that
24 we cannot determine the number of policies relating to
25 the blocked accounts, so that the 16 number relates to
0063
1 confiscated policies.
2 COMMISSIONER SENN: Why can't you determine
3 the number related to blocked accounts?
4 MR. BOWERS: I can't answer that question.
5 I don't know. I assume that the blocked accounts, the
6 policies within the blocked accounts have been merged in
7 a -- what I've been told is a financial transaction, and
8 in effect, the identity of those policies is somehow
9 obliterated by that transaction back in time.
10 COMMISSIONER SENN: But you still have --
11 you have that list of 22,000 so you still have the name
12 of the policyholder, and the policy. Isn't there some
13 dispensation of the policy?
14 MR. BOWERS: But whether it relates to
15 those blocked accounts, I've been told that we cannot
16 provide that information. We don't know that
17 information.
18 COMMISSIONER SENN: Well, how does it
19 appear on your books, as paid or unpaid or --
20 MR. BOWERS: I can't answer that. I
21 assume that it's deemed to be paid. But I'm not sure.
22 MS. SUREAU: So shortly -- awhile ago, you
23 testified that of the 16 confiscated policies, ten had
24 been identified as not related to Zurich, leaving six
25 that were related to Zurich.
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1 MR. BOWERS: That's my understanding, yes.
2 MS. SUREAU: And what is the status of
3 those six?
4 MR. BOWERS: I need to get that
5 information and provide it to you.
6 MS. SUREAU: Thank you. Can you tell us
7 what happens when a claimant is rejected. Just -- if
8 you could just tell us that.

9 MR. BOWERS: I believe there is a letter
10 sent to the claimant informing him of that fact, and
11 providing the reasons for that.
12 MS. SUREAU: And have you seen such
13 letters?
14 MR. BOWERS: No, I have not.
15 MS. SUREAU: Have you made any inquiries as
16 to the kind of information that is given, aside from the
17 fact that the claim is being rejected?
18 MR. BOWERS: No, other than the specific
19 reasons for the rejection. I'm not sure what you mean
20 by that question.
21 MS. SUREAU: Well, I was -- what brought
22 this question to mind, frankly, was the discussion that
23 went on earlier with Generali, where the reason was
24 given, but it was not well explained. So I was just
25 wondering if you could give us any information about the
0065 types of details that were explained to the claimant
1 when their claim was rejected. Things of the nature, if
2 it was a confiscated policy, it didn't belong to Zurich.
3 You wouldn't have the information responsive to that
4 question; is that correct?
5 MR. BOWERS: In terms -- as I understand
6 it, you would like to know the -- some of the reasons
7 for the rejection; is that correct?
8 MS. SUREAU: I would like to know what a
9 claimant is informed of as far as those reasons are
10 concerned, yes.
11 MR. BOWERS: Okay.
12 MS. SUREAU: Thank you. And when a claim
13 is rejected, aside from the letter explaining the
14 reasons for the rejection, are copies of any
15 documentation existing in the company's files also
16 supplied to the rejected claimant?
17 MR. BOWERS: I can't answer that. I
18 suspect not, but I can get an answer for you on that.
19 MS. SUREAU: Thank you. And if the answer
20 is no, would you also provide us with an explanation of
21 the company's reasoning for not supplying the
22 documentation?
23 MR. BOWERS: Yes.
24 MS. SUREAU: Thank you. Mr. Bowers, how
0066 many Zurich names currently appear on the ICHEIC WEB
1 site?
2 MR. BOWERS: Names of companies?
3 MS. SUREAU: No, I'm sorry, names of policy
4 holders.
5 MR. BOWERS: It's my understanding that
6 22. I'm not sure if any of the confiscated policies
7 have been put on the WEB site.
8 MS. SUREAU: And would you tell me the
9 reason why the confiscated policies would not be
10 included on the WEB site?
11 MR. BOWERS: I don't know. I can't verify
12 that they're on there or not.
13

14 MS. SUREAU: Okay. Could you determine
15 that also, and if the answer is that they're not
16 included, would you provide us with an explanation of
17 why the company took that position --
18 MR. BOWERS: Yes.
19 MS. SUREAU: -- not to include them? Thank
20 you. Does Zurich as a company support the publication
21 of policyholder names?
22 MR. BOWERS: Of unpaid policyholder names,
23 yes.
24 MS. SUREAU: So I take it from that
25 response that Zurich's position is that it does not
0067 support the publication of paid policyholder names?
1 MR. BOWERS: Correct.
2 MS. SUREAU: And is it also -- is my
3 understanding correct that you do not have a definition
4 of what Zurich considers paid policies?
5 MR. BOWERS: Other than what I related to
6 you, that paid constitutes a match between our payment
7 records and the policy records.
8 MS. SUREAU: I believe -- well, let me ask
9 you the question rather than assuming. When you talk --
10 when we spoke about blocked accounts, I believe that you
11 told me that those were considered paid also; is that
12 correct?
13 MR. BOWERS: I don't know for sure. I
14 made an assumption. That's one of questions that I
15 wrote down to find out.
16 MS. SUREAU: All right, thank you. We're
17 muttering back here because we're a little puzzled,
18 because your testimony today seems to conflict a little
19 bit with the testimony that was given at earlier
20 hearings. The testimony that I'll just quote to you,
21 was that payment into a blocked account is considered
22 paid, and if the insured didn't receive the money it
23 became a banking issue subject to full restitution under
24 the German restitution program. Does that sound
0068 familiar to you?
1 MR. BOWERS: That's a better explanation
2 than what I provided. I called it a financial
3 transaction in the sense that moneys were paid in to
4 a -- other than to the claimant or to a recipient, and
5 then there was a -- in reliance on the fact that it
6 would then ultimately be distributed. So I made the
7 assumption that once that money is paid in, ascribed to
8 that policy, there is an indication in our records that
9 the policy has been paid.
10 MS. SUREAU: So to go back to my current
11 question, Zurich does support the publication of
12 policyholder names, but not with respect to blocked
13 account names; is that accurate?
14 MR. BOWERS: I believe that's an accurate
15 statement, yes.
16 MS. SUREAU: Thank you. Has Zurich
17 approached the Swiss governmental authorities regarding
18

19 relaxing the privacy laws for insurance in the same way
20 the law was relaxed to allow the publication of names of
21 the holders of dormant bank accounts?

22 MR. BOWERS: I don't know the answer to
23 that.

24 MS. SUREAU: And would you get me the
25 answer to that?

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1 MR. BOWERS: Yes.

2 MS. SUREAU: Thank you.

3 Thank you, Mr. Bowers, I believe that's all the
4 questions we have. We really appreciate your testimony
5 today.

6 MR. BOWERS: Can we go through the list of
7 questions so that I make sure I have all of them?

8 MS. SUREAU: Certainly.

9 MR. BOWERS: You wanted to know the status
10 of the one Fast-Track claim that has not been addressed
11 and is still pending.

12 MS. SUREAU: Correct.

13 MR. BOWERS: The status of the confiscated
14 policies.

15 MS. SUREAU: Correct. With -- Zurich's
16 position with regard to the confiscated policies.

17 MR. BOWERS: Correct. Whether there is an
18 illustrative list of rejection reasons that are
19 provided.

20 MS. SUREAU: I think we confused -- I have
21 two with regard to the confiscated issue. One is what
22 is Zurich's position with regard to confiscated
23 policies, and the second one is, what is happening with
24 the six confiscated policies that have been identified.

25 MR. BOWERS: Right. And whether they've

0070

1 been put on the WEB site?

2 MS. SUREAU: Correct.

3 MR. BOWERS: The blocked accounts, the
4 discussion we just had had as to whether they are deemed
5 to be paid, and approaching the -- what constitutes paid
6 in our records, and whether or not we have approached
7 the Swiss government on the privacy.

8 MS. SUREAU: Correct.

9 MR. BOWERS: Okay. Is that it?

10 MS. SUREAU: Thank you, Mr. Bowers.

11 COMMISSIONER SENN: Let's take a break now.
12 We'll get back to Generali after about five minutes or
13 so.

14 (A brief recess was taken.)

15

16 TESTIMONY BY GENERALI REPRESENTATIVES (RESUMED)

17 COMMISSIONER SENN: The last section I have
18 is on, of course, the names. And we asked you questions
19 about that in January. Let me review. There is a disc
20 in the possession of Yad Vashem of 340,000 names. It is
21 my understanding that of those names, there were matches
22 of 90,000?

23 MR. CARNICELLI: No, I think that's --

24 COMMISSIONER SENN: What's the --
25 MR. SCHNABL: Generali provided Yad Vashem
0071

1 with a historical record of all the policies they had
2 written, in some cases going back to the late 19th
3 century, and -- 1945, I think in Eastern Europe, for
4 historical reasons. Then, they culled from that
5 universe, the policies that were in effect in 1938,
6 because -- if you want me to stop at any point, I'm
7 sure you will interrupt me. So I don't want to go
8 beyond what --

9 COMMISSIONER SENN: No, keep going.
10 MR. SCHNABL: They culled from that, those
11 policies that were in effect in 1938, because frankly,
12 the only relevant universe isn't the policies that may
13 have been sold at any time before the war, but those
14 that were, in fact, in effect at a relevant time before
15 the war, and the generous cut-off date was December 31,
16 1937, which we assume, obviously, were the policies in
17 force in 1938. Those were in the neighborhood of
18 89,000. That was given to Yad Vashem to match against
19 their various lists of possible Holocaust victims. And
20 that generated a first set of approximately 8,900 --
21 8,740 names, all of which I understand were published on
22 the Internet. And an additional, approximately twelve
23 and a half thousand names which were possible matches,
24 and where Yad Vashem asked Generali for additional
25 information, to see whether they could run additional

0072
1 matching programs to try to refine the analysis with
2 respect to those twelve and a half thousand.

3 And I have been advised that in July of this
4 year, we have, in fact, provided Yad Vashem with the
5 additional information, other data fields, like, I
6 think, place of issuance of the policy and other such
7 information to allow them to run additional runs, and
8 they are -- they, Yad Vashem, are in the process of
9 further refining the analysis with respect to the
10 additional twelve and a half thousand. Whatever that
11 produces, Generali has already committed to allow the
12 free publication of that result, whatever it may be.
13 Twelve thousand -- twelve and a half thousand or any
14 subset of that.

15 COMMISSIONER SENN: So Generali has
16 committed to publishing 12,000 more names?

17 MR. SCHNABL: No, it has committed itself
18 to publishing any names that Yad Vashem determines are
19 possible Holocaust victims. And since they're analyzing
20 a set of an additional twelve and a half thousand names,
21 I'm saying that's the universe; if it turns out to be
22 twelve and a half thousand, that will be the number
23 published; if it's some lesser number, that will be the
24 number of names published, in addition to the 8,900 that
25 have already been published.

0073
1 COMMISSIONER SENN: So when do you think
2 that will happen?

3 MR. SCHNABL: I don't have an answer,
4 because that's in the hands of Yad Vashem, and that
5 effort is being undertaken in cooperation or conjunction
6 with ICHEIC, and we are not directly involved in it,
7 other than giving him -- giving them the data on which
8 to do that work.

9 COMMISSIONER SENN: Right now we're talking
10 of a universe of about 20,000 names, 8,000 published,
11 and 12,000 that are possibles?

12 MR. SCHNABL: Out of the 89,000 policies in
13 effect at -- in effect at the beginning of the war.

14 COMMISSIONER SENN: So what's on those
15 other 79 -- 69,000?

16 MR. SCHNABL: Presumably, most of them are
17 non-Holocaust victims, not Jewish or other Holocaust
18 victims, since obviously, the market in which Generali
19 operated was more than selling policies to Jewish or
20 future Holocaust victims. So the bulk of those policies
21 in effect at the beginning of the war, are non-Jewish
22 non-Holocaust related names.

23 COMMISSIONER SENN: And on the disc of
24 340,000, what countries are on that disc? Are there
25 names from Greece, Lithuania, France, the Netherlands,
0074 other Western European countries?

1 MR. SCHNABL: My understanding is they're
2 not Western European countries, and that the number of
3 Western European policies unpaid is really numbered in
4 the handful, and by handful, the order of magnitude is,
5 I think they've found thirteen such policies in Italy,
6 and numbers of the same kind elsewhere in Western
7 Europe, because as the Commissioner has been advised in
8 the past, Generali -- and I understand other companies
9 as well -- have been paying Western European policies
10 where there was no nationalization by communist
11 governments in the regular course of business, since the
12 end of the war. So there are really no significant
13 numbers of unpaid Western European policies. So the
14 answer to your question is, I understand they're Eastern
15 European policies, not Greek or French or Italian and
16 the like.

17 COMMISSIONER SENN: You know, it's
18 interesting. We have a family here in the State of
19 Washington from Thessalonica whose uncle was a Generali
20 agent, and who had about 13 policies, 13 policies from
21 family members who, ten years ago, they threw away the
22 policies in despair, because Generali wouldn't pay them,
23 and that was Greece. So where are the names of the
24 policy holders from Greece?
0075

1 MR. SCHNABL: I don't have an answer. I do
2 know that they have undertaken to do whatever work they
3 could to find records, or to compile records for Greece.
4 I don't know where that stands. I'm happy to follow up
5 on that score. I just don't know the answer to that.

6 COMMISSIONER SENN: And then, in Austria
7 when the ICHEIC examined the Austrian archives, a number

8 of Generali policies appeared on that list. How many?
9 (A discussion was held off the
10 record.)
11 COMMISSIONER SENN: It was a list of, what,
12 12,000, on the Austrian list? They found 12,000
13 policies on the Austrian list, and 10 or 12 percent were
14 Generali policies. So if we inquired as to those
15 policies, they would have been paid?
16 MR. SCHNABL: I don't know what the answer
17 to that is. I really don't know what the answer to the
18 Austrian -- what the answer is to the current status of
19 the Austrian portfolio. I think they were acquired from
20 another company after the war; I'm not sure that they
21 were originally Generali policies. But that's just my
22 understanding.
23 COMMISSIONER SENN: It's our understanding
24 there's a thousand Generali policies on the Austrian
25 list that are Generali policies. Also, we have someone
0076 in the room from Austria who's got a Generali policy
1 that wasn't paid. Three people.
2 So the disc of names that Yad Vashem has is not
3 universal, it's just Eastern Europe?
4 MR. SCHNABL: Yes.
5 COMMISSIONER SENN: So where are the Greek
6 and the Austrian names?
7 MR. SCHNABL: I can follow up,
8 Commissioner, with respect to where they stand in
9 respect to the efforts undertaken to do a Greek list. I
10 don't know whether we have records in our possession
11 that reflect policies that might have existed in
12 Austria, but I will follow up on that.
13 COMMISSIONER SENN: I want to introduce you
14 to Francis Mayor who's sitting in the room back here.
15 She has a dowry policy from Austria, that was her
16 father's policy that he purchased, two of them.
17 MS. MAYOR: No, the dowry policy was
18 Phoenix.
19 COMMISSIONER SENN: Was Phoenix, I'm sorry.
20 MS. MAYOR: But my father's policy was
21 Generali, and they confirmed that as late as '98.
22 COMMISSIONER SENN: So you've confirmed
23 that her father has a policy from Austria, and have you
24 received a letter, Francis, from --
0077
1 MS. MAYOR: Well, in '98, yes, we had a
2 policy, and it was in dollars, and it was this and this
3 amount, and the policy was surrendered. It was sort of
4 mystifying. Then my father had taken notes on that, and
5 said they paid it into the bank in Vienna. Ironically,
6 my father used to be employed there, and they handed it
7 over to the Nazi party of Berlin.
8 COMMISSIONER SENN: It's a blocked account?
9 Confiscated policy. Okay. So we're concerned because
10 we have claimants from other than Eastern Europe who
11 have evidence of Generali policies.
12 MS. MAYOR: I have the policy number if

13 that is of interest.
14 COMMISSIONER SENN: We've sent it along to
15 them. They have it.
16 MR. SCHNABL: We'll follow up.
17 MS. MAYOR: If my luck persists, I'll live
18 another ten years, so don't rush.
19 COMMISSIONER SENN: Now, let me ask again
20 about the policyholder names that were published. Does
21 the ICHEIC hold all 90,000 names?
22 MR. SCHNABL: Yes, presumably. Yes, we
23 have given them that list. And they have shared it with
24 Yad Vashem.
25 COMMISSIONER SENN: You wouldn't object if
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1 ICHEIC published all 90,000 names?
2 MR. SCHNABL: Yes, we would, absolutely.
3 COMMISSIONER SENN: Because?
4 MR. SCHNABL: Because the vast bulk of
5 those names are not Holocaust related. The vast bulk of
6 our market of unpaid policies was not Holocaust related.
7 COMMISSIONER SENN: You would object to the
8 90,000? I'm not talking about the 340.
9 MR. SCHNABL: Right. Right. And I will
10 follow up and say that after full discussion of that
11 subject, ICHEIC agreed to limit the publication to those
12 names amongst those 89,000 determined by Yad Vashem or
13 any other reasonable mechanism to be possible Holocaust
14 victims so that there is some rational basis on which to
15 limit that universe to those who possibly may have a
16 claim, rather than to extend it or to publish every one
17 of the policies that may have been in force at the
18 beginning of 1938, the bulk of which has nothing to do
19 with the scope for which ICHEIC was set up.
20 COMMISSIONER SENN: What were the criteria
21 used to determine the names to be published on the WEB
22 site?
23 MR. SCHNABL: I would say -- I think I have
24 hopefully given an answer. It is those names that Yad
25 Vashem identified as possible Holocaust victims because
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1 they matched to some extent the lists they have in their
2 archives associated with the Holocaust. We did not
3 establish the criteria. We gave them the name, date of
4 birth, I think place of issuance of the policy, and they
5 did the analysis and said these are the names that match
6 those, and we said okay. We didn't audit that, we
7 didn't question it. Those were published. And as I
8 said, we have the standing commitment of the same nature
9 with respect to the additional twelve and a half
10 thousand names.
11 MS. SUREAU: I did have one question just
12 having to do with the same topic. Now, I understand
13 that Yad Vashem, the list is considered to be the most
14 comprehensive source for locating victims of the
15 Holocaust, but in talking about this Austrian archive
16 that apparently was a fairly recent discovery, that's
17 another source that seems to be pretty credible. Are

18 you aware of any other sources that would serve as a
19 match point to check the Generali list against?
20 MR. SCHNABL: We are not aware. ICHEIC has
21 undertaken, at ICHEIC's expense, to hire an archivist
22 who is doing considerable work, I understand, in Germany
23 and Austria, and has committed itself -- I do remember
24 this subject being discussed repeatedly -- to publishing
25 on its WEB site any other sources of information and

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1 lists that might be found, that might have a bearing on
2 this issue. We don't have it. I mean, understand that
3 the state of our records is purely accidental that we
4 have certain records that allowed us to construct these
5 data bases, and I will point out that of the 9,000 or so
6 names provided by companies that are on ICHEIC's
7 database, the vast bulk are Generali provided names. So
8 this is the status of our knowledge leaving aside, as
9 the Commissioner pointed out, some few additional names
10 that were in the process of being compiled for specific
11 Western European countries, and I promised I would
12 follow up on that score. But the bulk of the unpaid
13 policies for Generali -- on Generali's perspective, were
14 in Eastern Europe, and the status of our knowledge on
15 that score is summarized on the discs we provided Yad
16 Vashem. So there may be other archives, but they're not
17 within our control or to our knowledge.

18 MS. SUREAU: And if, and when, other
19 archives are discovered that ICHEIC identifies as being
20 credible, the same way that Yad Vashem's lists are
21 credible, would Generali commit to trying a match
22 against those sources also?

23 MR. SCHNABL: The answer to that is of
24 course, yes, but I will say, wholly apart from that,
25 anybody today is in a -- fortunate is not the right word

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1 in this context, but at least in the comparatively
2 better position, compared to other companies who say
3 they have no records at all, to come to us and say, "I
4 don't know anything about a list. I haven't even gone
5 to the Internet, I don't even know how to use a
6 computer. This is the name of my father or my aunt or
7 my cousin. I know them to have had a Generali policy.
8 Could you check that." And given the status of our
9 records, and the relatively fulsome list we have of
10 policies in effect at the beginning of 1938, you come to
11 us and we can, in relatively short order, tell you there
12 is or there isn't a match, irrespective of the existence
13 of a list.

14 So we certainly encourage anybody to do that,
15 and that is, I think, the bulk of the work that we are
16 doing. And that is why, to a very large extent, there
17 is such an apparently large proportion of denials, and
18 that's why I also hesitate to call them claims, because
19 that's really an unfortunate and unfair nomenclature to
20 those who actually know of a policy, because the vast
21 majority of people say, "Generali, check if there is a
22 policy under that name." And we do that. And you don't

23 need a list for that. All you need to know is that your
24 parents or relatives lived somewhere in Eastern Europe,
25 and you have to have some suspicion that they had a

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1 policy. So the answer to your question is yes. Yes,
2 most emphatically, not just because other lists may be
3 found. You can come to Generali and make that inquiry,
4 even in the absence of a list.

5 COMMISSIONER SENN: Mizzi Fink from our
6 state was paid -- she's from Czechoslovakia, she was
7 paid for a claim that was not on the list. So where did
8 her name come from?

9 MR. SCHNABL: I've just said, from
10 presumably an inquiry made to us, is there such a name,
11 we found the name, and then proceeded to pay. The list
12 is a mechanism to alert people that there are a certain
13 set of names that might have been on our records, and
14 that might have been Holocaust victims. Check it out.
15 But it is not the exclusive source for establishing or
16 for analyzing whether or not we have policies.

17 COMMISSIONER SENN: Why do you think Mizzi
18 Fink's name wasn't captured on your list?

19 MR. SCHNABL: Presumably because -- a
20 theoretical possibility, because I'm not about to tell
21 you that I know why any particular name was or wasn't.
22 It is entirely possible that the matching program or the
23 run or the analysis Yad Vashem did, didn't pick her name
24 up. That is possible.

25 COMMISSIONER SENN: Let me tell you the

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1 reason.

2 MR. SCHNABL: Or she could be in the
3 12,000.

4 COMMISSIONER SENN: But let me tell you
5 another reason. Because she's alive and her husband
6 survived the war, he died after the war, but he still
7 had a Generali policy.

8 MR. STERN: So he wouldn't have been on a
9 Yad Vashem match of victims. He wasn't a victim of the
10 Holocaust.

11 COMMISSIONER SENN: They're survivors, not
12 victims.

13 MR. SCHNABL: The answer is, that is
14 possible, although you did not need to be a victim in
15 the sense of having died to end up in a Yad Vashem list.
16 As we understand it, after having visited -- you're
17 shaking your head?

18 MR. STERN: No, the Yad Vashem list is a
19 list of victims.

20 MR. SCHNABL: I know, but to the extent I
21 understand it, it is not a list -- "a list," there's no
22 such thing as a list. They have, in fact, something on
23 the order of ten thousand lists.

24 COMMISSIONER SENN: That's correct, they
25 have thousands of lists.

0084

1 MR. SCHNABL: Thousands of lists, and the

2 lists are lists of people who were victims in the sense
3 you use the word have died in the Holocaust, and could
4 be including lists of people who were deported,
5 transported, whose assets were taken, in other words,
6 you did not necessarily have to be, as I understand it,
7 a victim as you use it, to have been in the Yad Vashem
8 list. So it is a possibility, but it is still true, she
9 could -- she or relatives could be part of the 12,000.
10 So those are two possibilities.

11 COMMISSIONER SENN: She's not part of the
12 12,000. She's from Czechoslovakia, not Austria.

13 MR. SCHNABL: I'm sorry?

14 COMMISSIONER SENN: Oh, you mean the second
15 12,000?

16 MR. SCHNABL: Yeah, the second 12,000 that
17 Yad Vashem is working on.

18 MS. SUREAU: Okay. To return to the
19 subject of additional sources aside from Yad Vashem,
20 would Generali as a member of ICHEIC be committed to --
21 well, let me back up and ask a preliminary question.
22 You said that there is an archivist working on
23 developing additional records. Have there been any
24 standards developed by ICHEIC as to what they will
25 accept or won't accept?

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1 MR. SCHNABL: You're asking a question --
2 accept or not accept, in light of the fruits of this
3 archivist's work?

4 MS. SUREAU: Correct.

5 MR. SCHNABL: Not that I know of. I think
6 this is a highly regarded professional who I think has
7 spent or has had a budget of I think in excess of a
8 million dollars, he has a staff of professionals, and
9 they have hired students and volunteers to go through a
10 number of European archives and there was a standing, as
11 I understand it, commitment by ICHEIC to publish the
12 fruits of that labor. I can't tell you what the outcome
13 of that is.

14 MS. SUREAU: And at the time when ICHEIC
15 published the fruits of that labor, would Generali
16 commit to matching, attempting matching of its lists of
17 names against those sources as well?

18 MR. SCHNABL: Of course.

19 MS. SUREAU: Thank you.

20 MR. SCHNABL: As I said before, we are
21 doing that even in the absence of those additional
22 lists. We are investigating any policy that somebody
23 brings to our attention, whether or not they are or are
24 not on the list. And we compare -- are more easily in a
25 position perhaps than other companies to say at least

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1 preliminarily whether we have a match or not.

2 MS. SUREAU: But you were talking, I
3 believe, about specific claimants who came to Generali
4 and said I believe I have a Generali policy or my father
5 or whatever had a Generali policy. I'm speaking of, you
6 have a data base of names of policy holders during the

7 relevant period that have been matched against the Yad
8 Vashem list. I'm saying would you, if another list is
9 developed based on the archivist's work, would you
10 commit to attempting a match on that basis as well,
11 similar to the match that was done against the Yad
12 Vashem list?

13 MR. SCHNABL: Well, the answer is probably
14 yes, but probably that list would be published without a
15 matching on the Internet, so you -- I mean, you can be
16 even more generous, because in a sense, we have control
17 or say only over those pieces of data that we have
18 provided, but if somebody finds an archive somewhere in
19 Austria or in the former Soviet Union or -- I don't
20 think the former Soviet Union, but in Eastern Europe, in
21 the archives of the companies that were taken over by
22 the communist governments, presumably we have nothing to
23 say on that score.

24 MR. STERN: One quick question, going back
25 to the Yad Vashem list, I'm just wondering about your

0087

1 assumption that if a name does not appear -- does not
2 match with the Yad Vashem list, that automatically that
3 means the person was not a victim of the Holocaust?

4 MR. SCHNABL: We made no such assumption.
5 Absolutely not. We just say -- and I will readily
6 concede that -- this is no -- I'm not making a
7 concession that is particularly stunning -- Yad Vashem
8 does not have a list of all the Holocaust victims. And
9 therefore, theoretically, there are names that will not
10 match even in a perfect analysis. The question is, what
11 is reasonable under the circumstances. By no stretch of
12 the imagination do I say that you have to be on that
13 list in order to have been a Holocaust victim. By no
14 means. That's why anybody who gives us a name supported
15 by credible assertions or the relaxed standards of proof
16 that the person on whose behalf they are claiming was,
17 in fact, a Holocaust victim, will get paid, as the
18 example the Commissioner mentioned, shows.

19 COMMISSIONER SENN: Thank you gentlemen.

20 MR. SCHNABL: Thank you.

21 COMMISSIONER SENN: Mr. Lefkin?

22

23 TESTIMONY BY ALLIANZ REPRESENTATIVES

24 MR. BORGERSEN: Good afternoon,
25 Commissioner. Sigurd Borgersen of Schwabe, Williamson &

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1 Wyatt. I am here representing Fireman's Fund.
2 Mr. Lefkin here is Senior Vice President of Fireman's
3 Fund. He has knowledge concerning Allianz' affairs,
4 and -- but is here in his capacity as Senior Vice
5 President of Fireman's Fund.

6 COMMISSIONER SENN: Mr. Lefkin, why don't
7 you state your name and address for the record.

8 MR. LEFKIN: My name is Peter Lefkin,
9 Senior Vice President, Fireman's Fund Insurance
10 Companies, Washington, DC.

11 COMMISSIONER SENN: Mr. Lefkin, we're going

12 to go through the same process, asking how the claims,
13 how many have been paid, et cetera, but I do want to ask
14 you as a follow-up from our last hearing in January, at
15 the time you said that of the 1.5 million policies
16 identified in your archives that survived the war, that
17 you would over the course of two years put on a data
18 base 150,000, and that you had completed 10 percent of
19 that, 15,000, in January.

20 MR. LEFKIN: That's correct.

21 COMMISSIONER SENN: How's it coming?

22 MR. LEFKIN: Slowly. There are some
23 difficulties -- we are providing every month a list of
24 ten thousand names to the International Holocaust
25 Commission, their insurance claims, which to my

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1 knowledge is transmitting those to Yad Vashem. It is my
2 understanding that Yad Vashem is experiencing some
3 technical and financial difficulties in processing the
4 claims, both with respect to the ICHEIC claims as well
5 as the Swiss bank claims, and they've been slowed in the
6 process. But we are certainly fulfilling our
7 obligations under the terms of that agreement.

8 COMMISSIONER SENN: You said ten thousand a
9 month. So how many have you submitted --

10 MR. LEFKIN: Probably a hundred thousand
11 since November.

12 COMMISSIONER SENN: As of November you have
13 submitted a hundred thousand --

14 MR. LEFKIN: That's right.

15 COMMISSIONER SENN: -- that you have
16 computerized into a data base?

17 MR. LEFKIN: We have computerized the data
18 base and sent it to Yad Vashem, that's correct.

19 COMMISSIONER SENN: Okay, Carol.

20 MS. SUREAU: Hi, Mr. Lefkin. Could you
21 tell me how many claims Allianz Lebens -- is that the
22 way you pronounce it?

23 MR. LEFKIN: Lebens, yes.

24 MS. SUREAU: -- has received through the
25 ICHEIC process?

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1 MR. LEFKIN: That I cannot tell. I thought
2 I came here under the assumption that I was supposed to
3 be talking about the proposed rule and regulation. I do
4 have some information on RAS, which RAS passed out to
5 me, but I would certainly have done a more thorough
6 investigation had I known that was going to be the
7 subject matter of today's hearing. But I thought the
8 subject matter was the extension, whether -- the six
9 months extension for the safe harbor. I could give you
10 information on RAS, which I do have available.

11 MS. SUREAU: One of the purposes for the
12 many, many questions that we're asking the companies is
13 to determine the status of things so that we can make a
14 determination about the safe harbor. So that is the
15 purpose of the hearing, but we need to ask these other
16 questions in order to --

17 MR. LEFKIN: I understand. I wish you were
18 more clear on your instructions, I would have done a
19 much better job on investigating before I came here.

20 COMMISSIONER SENN: I think, Mr. Lefkin, we
21 were very clear, and I'm going to get the letter and
22 read you a portion, that talked about it.

23 MR. LEFKIN: In any event, I do have some
24 information relating to RAS which I'd be happy to share
25 with you.

0091

1 COMMISSIONER SENN: Under the law, the safe
2 harbor no longer exists until or unless I adopt a rule
3 changing the definition of a, quote, reasonable time.
4 I'm therefore interested in hearing testimony regarding
5 the status of the ICHEIC process, in particular, your
6 company's participation in that process to date. Your
7 testimony may be crucial in determining the advisability
8 of adoption.

9 MR. LEFKIN: Well, I have some very
10 positive news today, because I think we've even gone
11 beyond the ICHEIC process. And I'd be delighted to chat
12 about that, which is the German Foundation Initiative.

13 COMMISSIONER SENN: We're going to ask you
14 about that, Mr. Lefkin, but we wanted to know your
15 participation in the ICHEIC process. So wouldn't you
16 agree the fundamental question is how many claims you've
17 received and how many claims --

18 MR. LEFKIN: Absolutely, and I just said
19 I'd be delighted to chat with you. I have the RAS
20 numbers. I don't have the Allianz Lebens numbers. But
21 I would be delighted to chat with you about this. I'm
22 surprised you don't have Mr. Sher or Mr. Eagleburger
23 here because they could probably attest to our good
24 faith participation in the International Commission.

25 COMMISSIONER SENN: We always get off on

0092

1 the positive foot here, Mr. Lefkin.

2 MR. LEFKIN: Absolutely.

3 COMMISSIONER SENN: But let's get the
4 status, and we are talking to Mr. Eagleburger and
5 Mr. Sher, and I'm sure that they have input, but we want
6 to hear from you what you've accomplished in terms of
7 paying survivors.

8 MR. LEFKIN: What we've accomplished over
9 the last year is the achievement of the German
10 Foundation Initiative --

11 COMMISSIONER SENN: I don't want --

12 MR. LEFKIN: -- which offers 550 million
13 Deutch Marks in compensation to victims of the Holocaust
14 and their heirs.

15 MS. SUREAU: Okay, Mr. Lefkin, this is
16 going to go at lot more smoothly if you'll allow us to
17 run through our questions that we've prepared and do it
18 in an orderly manner.

19 MR. BORGERSEN: Excuse me. You did ask him
20 that question, and he's preparing to answer it.

21 MS. SUREAU: Let me repeat my question. If

22 he's indeed answering it, I'd love to hear it. My
23 question was how many claims has Allianz Lebens received
24 through the ICHEIC process?
25 MR. BORGERSEN: I think he answered that.

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1 MR. LEFKIN: I do not know. I'll get back
2 to you on that.
3 MS. SUREAU: So there was no answer to that
4 question.
5 MR. BORGERSEN: No, there was an answer to
6 that.
7 MS. SUREAU: There was not a responsive
8 answer.
9 MR. LEFKIN: Yes, there was a response. I
10 will get back to you on those numbers.
11 MS. SUREAU: Are you able to tell me how
12 many claims of those undetermined number that Allianz
13 has received through the ICHEIC process have been paid
14 to date?
15 MR. LEFKIN: Yes. Well, I do have figures
16 for RAS which constitute the bulk majority of --
17 MS. SUREAU: If we could go back to Allianz
18 Lebens for just a moment.
19 MR. LEFKIN: I don't have those numbers.
20 And I will get back to you. I promise to do so in the
21 next few days.
22 MS. SUREAU: And will you provide that
23 information without further questions, Mr. Lefkin?
24 MR. LEFKIN: I'd be delighted to do so.
25 I'm always happy to cooperate with the Commissioner's

0094

1 office.
2 MS. SUREAU: Thank you. Now to turn to the
3 Vareinte Lebens, could you tell me how many claims that
4 entity has received?
5 MR. LEFKIN: I do not know.
6 MS. SUREAU: Are you able to tell me how
7 many claims that entity has paid?
8 MR. LEFKIN: I do not know. I could
9 investigate and get back to you.
10 MS. SUREAU: Thank you. Okay. Now, we're
11 at RAS. And you'll forgive me if I call it R-A-S. I'm
12 not able to pronounce it in its ethnic form. Can you
13 tell me how many claims RAS has received through the
14 ICHEIC process.
15 MR. LEFKIN: They've received 4,377
16 inquiries, not claims. And inquiries, there are -- the
17 vast majority of these inquiries constitute requests.
18 No information even naming RAS as potential insurance
19 company, just asking -- things that are submitted by the
20 ICHEIC through RAS to investigate.
21 MS. SUREAU: And can you tell me of those
22 4,377, how many offers have been made?
23 MR. LEFKIN: Let me just -- if I can give
24 you -- elaborate a little further, there have been
25 approximately 200 offers made, in total. Let me just --

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1 actually, about 125. 2,500 -- about 2,700 have been
2 rejected because they -- it was felt that they did
3 not -- there was no policy documentation to corroborate
4 whether or not a claim existed, or more importantly,
5 whether or not RAS was the insurer. But we're getting a
6 lot of inquiries. They're not claims.
7 MS. SUREAU: Okay. And the number of
8 offers -- I got a little confused about the answer.
9 MR. LEFKIN: Number of offers, there's 121
10 in total, as of right now.
11 MS. SUREAU: Can you tell me the average
12 size of the offer?
13 MR. LEFKIN: Looking at the number here,
14 it's probably about \$5,000 or so.
15 MS. SUREAU: And can you give me the total.
16 MR. LEFKIN: Actually, it's about \$8,000.
17 I'm just going through it. \$8,000, I guess, I would
18 estimate here.
19 MS. SUREAU: And can you give me the total
20 amount that's actually been paid out to date.
21 MR. LEFKIN: Yes. From RAS, probably --
22 approximately 753,000 have been -- has been paid.
23 MS. SUREAU: And can you tell me how many
24 claims are currently pending for RAS?
25 MR. LEFKIN: There are a lot -- I don't
0096
1 know how many claims. There are a significant number of
2 inquiries and I think we should try to differentiate
3 between inquiries and claims. Because an inquiry is not
4 a claim. You deal with claims every day with respect to
5 your insurance companies.
6 MS. SUREAU: Maybe a way we could deal with
7 this different terminology is you could explain to me
8 what your company sees as a claim, and what your company
9 sees as an inquiry.
10 MR. LEFKIN: The company --
11 MR. BORGERSEN: You're referencing Allianz?
12 MR. LEFKIN: Not Fireman's Fund. We didn't
13 do business in Europe before World War II.
14 MS. SUREAU: You're correct. Thank you.
15 COMMISSIONER SENN: I thought we were
16 talking about RAS.
17 MR. LEFKIN: RAS, okay.
18 MR. BORGERSEN: Still not Fireman's Fund.
19 MR. LEFKIN: Not Fireman's Fund. But
20 speaking of RAS, an inquiry really is an investigation
21 where somebody sets forth information, much of it
22 anecdotal, "My grandparents lived in Eastern Europe, and
23 they must -- they might have had an insurance policy."
24 In certain instances, some of that information we're
25 receiving from the International Commission, what might
0097
1 identify RAS as a potential policy. That would probably
2 be -- that would also -- that would be an inquiry. Much
3 of the information, frankly, is much less specific.
4 It's, they had a policy in Eastern Europe, Eastgate
5 circulates it to see if they can corroborate with our

6 records.

7 What constitutes a policy is one which

8 identifies RAS by name and which has a scintilla of

9 evidence indicating --

10 MS. SUREAU: Let me back you up. You said

11 policy. I think you meant claim?

12 MR. LEFKIN: A claim, yes. It identifies

13 RAS as a company with a small element of corroboration

14 which can merely consist of, you know, some fragmentary

15 files, but something beyond just an inquiry.

16 MS. SUREAU: So would you consider a claim

17 something that had documentation as opposed to something

18 that merely had anecdotal evidence?

19 MR. LEFKIN: Yes, and very liberal evidence

20 of documentation too. We're not looking to get

21 conclusive policy files here.

22 MS. SUREAU: Let me just give you a

23 hypothetical. You know lawyers love hypotheticals. If

24 someone presented a declaration page for an RAS policy,

25 would that constitute a claim?

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1 MR. LEFKIN: Yes.

2 MS. SUREAU: Thank you. So back to my

3 original question, I would use the term inquiry. Could

4 you tell me how many inquiries are currently pending for

5 RAS?

6 MR. LEFKIN: Let's see. Probably, looking

7 at my numbers here, if you'll just bear with me.

8 MS. SUREAU: Certainly.

9 MR. LEFKIN: There are about 1,600 that are

10 currently being investigated.

11 MS. SUREAU: Thank you. And could you tell

12 me how many claims are currently pending?

13 MR. LEFKIN: That, I do know. I cannot

14 differentiate between the inquiries and claims right

15 now, but what I've been told by RAS is about 95 percent

16 of these inquiries, 95 percent of the information being

17 received from them are merely inquiries and not claims.

18 MS. SUREAU: All right. Because of your

19 own distinction between the two terms, could I ask you

20 to provide us -- you've already agreed to provide us

21 with certain information. Could you include in that

22 information telling us how many claims for RAS are

23 currently pending, under the definition that you gave

24 here today.

25 MR. LEFKIN: I'd be glad to do so. We've

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1 had a much better -- you know, frankly, we have far more

2 claims as a percentage of total inquiries, and we had a

3 significantly better record there. Because these would

4 tend to be better corroborated with some degree of

5 evidence submitted with them. So we've had fairly good

6 success there.

7 MS. SUREAU: Okay. And of the offers that

8 have been made, the 125 --

9 MR. LEFKIN: That's right.

10 MS. SUREAU: Can you tell me how many of

11 those were made on claims submitted through ICHEIC?
12 MR. LEFKIN: That, I can't tell you. Some
13 came in through various state insurance departments,
14 some came in through ICHEIC, some came in through both.
15 MS. SUREAU: Would you be willing to
16 provide us with that information?
17 MR. LEFKIN: If they have it, I'd be
18 delighted to do so. I'd have to investigate with RAS to
19 see if they broke it down that way.
20 MS. SUREAU: Now, the numbers that we've
21 just been discussing, can you tell me whether they
22 include any claims for inquiries involving any other
23 subsidiary companies of the mother entity?
24 MR. LEFKIN: No. This is the --
25 MR. BORGERSEN: Of whom? Of RAS?

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1 MS. SUREAU: Of Allianz.
2 MR. LEFKIN: No, we're speaking of RAS
3 right now. We do know -- I mean, the record in Western
4 Europe, we do know -- we're not -- I can tell you
5 anectotally, and I think you probably want a greater
6 degree of specificity, is that we're getting very, very
7 few claims relating to Germany or France or from
8 Holland, where Allianz has companies. And for the very
9 reasons that Mr. Bowers and others have articulated, is
10 that the records of clients' payment in Western Europe
11 after World War II is very good. And we do know 98 to
12 99 percent of all policies were paid after the war
13 either directly by the company or in the case of Germany
14 through restitution. So it's not surprising we're
15 getting a very small number of claims or inquiries from
16 Western Europe.
17 MS. SUREAU: So I take it from what you've
18 just said, correct me if I'm wrong, that subsidiary
19 companies of Allianz in Western Europe were not the
20 three that we've just discussed?
21 MR. LEFKIN: No, we're speaking
22 specifically of Reunite Adriatica -- well, Reunite
23 Adriatica Sindatrico is in Western Europe. It's
24 headquartered in Italy. The vast bulk of their
25 exposure, very few of these inquiries or claims are

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1 coming from Italy, almost everything in Italy has been
2 paid. Almost all of this is arising from inquiries
3 relating to Eastern Europe where they suffer from the
4 unfortunate consequences of nationalization, communism.
5 And someday I'd be delighted if you were to try to
6 invite some of those governments to one of these
7 hearings to talk about what happened there.
8 MS. SUREAU: Interesting idea. So you
9 mentioned one subsidiary in Italy. Did Allianz have
10 other subsidiaries in Western Europe?
11 MR. LEFKIN: Allianz didn't own RAS until
12 1986, and they still only own 51 percent of Reunite
13 Adriatica Sindatrico. They have subsidiary -- prior to
14 World War II, Allianz operated specifically as a German
15 company. After World War II, they expanded their

16 operations and became a multi-national company, and have
17 companies in Belgium, Netherlands, France, Italy,
18 England, United States, and about 70 different
19 countries.

20 MS. SUREAU: But during the relevant
21 period, the Italian operation was the only subsidiary?

22 MR. LEFKIN: No, it was not the subsidiary.
23 RAS was not purchased by Allianz until 1986.

24 MS. SUREAU: Thank you. Can you give me a
25 detailed description of how Allianz Lebens searches its

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1 records when a claim or inquiry is received?

2 MR. LEFKIN: Yes. It's my understanding
3 what they do is -- they first try to do is this, look
4 into the Central Registry, to see if there's a
5 possibility that a policy was applied for. The Central
6 Registry that Allianz has is not dispositive. It
7 doesn't indicate the policy exists, it merely indicates
8 the policy was inquired, that somebody specifically --
9 an agent submitted information, and -- to the company,
10 they addressed it with a policy number or a number which
11 is not a policy number, and for a variety of reasons
12 many of the names listed in the Central Registry do not
13 necessarily indicate that a policy existed. Sometimes,
14 a person refused it, sometimes -- sometimes the person
15 chose not to purchase the policy, other instances the
16 company chose not to insure that person. So that would
17 be the first step, the Central Registry.

18 After that, then you try to go back to the sort
19 of fragmentary records that you do have, and through --
20 also through the restitution records and a variety of
21 mechanisms. I'm not a hundred percent conversant with
22 all of them, but there's many different buttons or stop
23 points in which a claim -- how a claim is processed in
24 West Germany, or in the Federal Republic of Germany, I
25 should say.

0103

1 MS. SUREAU: Okay. So I got what you told
2 me about the Central Registry. I think that was pretty
3 clear. And then it goes to -- I got lost when you --

4 MR. LEFKIN: Okay. After that, there's a
5 variety of processes. What you'd try to do is you would
6 go into some of the archives that currently do exist,
7 you'd try to determine whether or not a policy was in
8 fact -- was there a possibility of the policy.

9 MS. SUREAU: Could I ask you what other
10 archives exist?

11 MR. LEFKIN: Well, there are a variety -- I
12 mean, there's -- for Allianz, Allianz has policy records
13 of its own, about half the policy records that have
14 survived World War II. About 1.5 million out of three
15 million policy files that probably existed before the
16 war.

17 There are also things like the German
18 Restitution Authorities, and they have archival
19 information.

20 MS. SUREAU: So it's not just company

21 information, but you also search through the German
22 archival information?
23 MR. LEFKIN: That's correct.
24 MS. SUREAU: I didn't mean to cut you off.
25 You were --

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1 MR. LEFKIN: No, that's correct. I mean,
2 it's -- it's a -- and it's an interesting process. I'm
3 certainly no expert on this. And there again --
4 MS. SUREAU: You're the closest thing we
5 have today.
6 MR. LEFKIN: And I -- and so I really can't
7 represent in its entirety exactly how it's done, but I
8 do know it's very pains -- it's very thorough,
9 painstaking and thorough.
10 MS. SUREAU: Is that as far as you can
11 describe?
12 MR. LEFKIN: Yes.
13 MS. SUREAU: Could I ask you, would you be
14 willing to provide us with a more detailed explanation
15 possibly given by people who are more familiar with the
16 process when you provide the other information?
17 MR. LEFKIN: I'd be delighted to do so.
18 When do you need that by?
19 MS. SUREAU: I don't have a particular
20 date. You could let us know any difficulties involved,
21 and we could agree on a mutually acceptable date.
22 MR. LEFKIN: I'd be delighted to do so.
23 MS. SUREAU: Thank you.
24 Referring back to some testimony that you
25 apparently gave at the January hearing, with respect to

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1 RAS's files, you said that there were few files
2 remaining in RAS's possession that related to the
3 Holocaust Era, that in fact these filled just a few file
4 cabinets. Do you know whether any Holocaust related
5 policy files in the possession of RAS were destroyed
6 over the years since?
7 MR. LEFKIN: I should have emphasized RAS
8 did not have control and has not had control of the
9 policy files since probably 1946, 1947. After World War
10 II, as you know, nationalization occurred, and -- where
11 they found themselves in the unfortunate situation of
12 having policy records seized as well as the assets of
13 the company, as well as the obligations to pay. So
14 there -- those are the exclusive files relating to
15 Eastern Europe. And they're very, very -- and they're
16 fragmentary and extremely small. A couple of file
17 cabinets is my understanding.
18 MS. SUREAU: So are those filing cabinets
19 currently in RAS's possession?
20 MR. LEFKIN: Yes, they are.
21 MS. SUREAU: And how did that come about?
22 MR. LEFKIN: Much it consists of
23 information that was submitted after World War II by
24 people -- a lot of it, I understand, is correspondence
25 that people submitted to RAS after World War II, and

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1 which the company retained. And -- for a variety of
2 reasons.

3 MS. SUREAU: So that the files that you
4 testified about in January -- correct me if I'm wrong
5 here, I'm just trying to state what I understood from
6 your testimony -- the files that you testified about in
7 January were files that were created of materials that
8 were collected after the war?

9 MR. LEFKIN: That's correct. RAS operates
10 in the same principles. I mean, you have companies
11 here -- Safeco, for example, was an outstanding company.
12 They do business overseas. Typically what happens
13 there, is that the policy records and files have got to
14 be retained in Canada, or in Mexico, or in England,
15 wherever they choose to do business. They're not
16 submitted back to the United States even though this is
17 the domiciliary country.

18 MS. SUREAU: I understand that. But I have
19 to say that that last statement kind of confused me
20 again. I thought I had it clear about what you were
21 saying about the RAS files. The files that RAS has
22 today --

23 MR. BORGERSEN: The two cabinets?

24 MR. LEFKIN: The two filing cabinets?

25 MS. SUREAU: The few -- yes, however many

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1 they are. Those are -- those contain, those filing
2 cabinets contain documents that were obtained after the
3 close of the war?

4 MR. LEFKIN: Yes, most of it's really --
5 it's letters and attestations from policy holders. It's
6 my understanding it's mostly letters and attestations
7 from policy holders, people after World War II who would
8 submit evidence or -- either direct communications or a
9 policy itself or a photocopy of the policy, or whatever
10 they used in the 1950's as a facsimile of a policy to
11 RAS.

12 MS. SUREAU: And where are those two file
13 cabinets located now, physically?

14 MR. LEFKIN: In the RAS headquartered in
15 Milano.

16 MS. SUREAU: Thank you. Can you also tell
17 me, were RAS files relocated from Trieste to Milan at
18 some point after World War II, after the close of the
19 war?

20 MR. LEFKIN: Most likely the headquarters
21 did move. I don't know if you know the really sort of
22 sad history of Trieste, because the company as well as
23 the Italian authorities were worried the city was going
24 to be seized by the communist regime, so the company
25 moved I think in 1949, 1950, and I presume that all of

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1 the policy files moved with the company at that time.

2 MS. SUREAU: So to the best of your
3 knowledge, it did move?

4 MR. LEFKIN: Yeah.

5 MS. SUREAU: They did move. I don't know
6 whether the answer to this question would be different
7 for each of the entities, so I'll just ask it on behalf
8 of all of the entities and if they're different, you
9 could just tell me that. How do the companies check for
10 variations in the spelling of names?

11 MR. LEFKIN: That, I don't know.

12 MS. SUREAU: Would you be good enough to
13 include that in the information that you've agreed to --

14 MR. LEFKIN: Be delighted to do so,
15 although I would suspect it's going to be a 40-page
16 document if I do so. I mean, there have --

17 COMMISSIONER SENN: Why don't you give us
18 the answer, Mr. Lefkin, and make it a little summarized
19 or more succinct than 40 pages. Can you do that?

20 MR. LEFKIN: I'll investigate that,
21 Commissioner Senn.

22 COMMISSIONER SENN: Thank you, Mr. Lefkin.

23 MS. SUREAU: I was going to suggest that
24 possibly this material, the discussion of how variations
25 in names are investigated, might also be in existence --

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1 might already be in existence, excuse me -- might
2 already be in existence. So that might make it easier.

3 Does Allianz support the open publication of
4 complete ICHEIC claims, standards, and rules?

5 MR. LEFKIN: All existing standing rules,
6 yes.

7 MS. SUREAU: The open publication,
8 submitted to the public --

9 MR. LEFKIN: All publication of existing
10 standards is a matter of public record already, I
11 believe, and we certainly support it.

12 MS. SUREAU: How about valuation formulas?

13 MR. LEFKIN: We support all existing -- all
14 standards that have been currently agreed to, yes.

15 MS. SUREAU: Audit standards?

16 MR. LEFKIN: All standards that have been
17 currently agreed to, yes.

18 MS. SUREAU: Thank you. Now, when the
19 record shows that a policy existed and was already paid
20 out during the Holocaust, and that period is defined by
21 ICHEIC, how does the company handle that claim? And
22 again, if the answer is different for each of the
23 entities, please tell me that.

24 MR. LEFKIN: Well, certainly under German
25 law, and we are talking about a German company, I

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1 presume, we are talking about Allianz, if you're talking
2 about the Allianz companies, under German law, those are
3 viewed as paid claims. If the policy has been paid in
4 the past, it's considered paid.

5 MS. SUREAU: So if such a claim came to the
6 companies, how would they be handled?

7 MR. LEFKIN: They would be investigated,
8 and most likely are handled as they are now, which is,
9 you would provide the claimant with a letter indicating

10 one, the policy is indeed open and has not been paid, in
11 which case we will make every effort to provide
12 renumeration, or alternatively, we would send a letter
13 indicating the policy was paid in the past, and
14 therefore cannot be paid currently.

15 MS. SUREAU: In this letter saying that the
16 policy was paid in the past, would the company
17 include -- I assume that you would determine that from
18 some type of documentation?

19 MR. LEFKIN: Yes.

20 MS. SUREAU: Would you include a copy of
21 that documentation to the claimant?

22 MR. LEFKIN: As much information -- yeah,
23 we certainly -- we provide the information that we know,
24 give them the reasons -- we try to give them as much
25 information as we know, indicating when it was paid,

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1 what -- that we determined that it was paid and so
2 forth, yes.

3 MS. SUREAU: And in that information, would
4 you include the amount that was paid, the date that it
5 was paid, the recipient of the payment, whoever that
6 might be?

7 MR. LEFKIN: Yes.

8 MS. SUREAU: Okay. Thank you. When a
9 claimant is rejected for any reason, is that person also
10 given the reasons for rejection?

11 MR. LEFKIN: Yes.

12 MS. SUREAU: And how detailed -- you've
13 heard me ask this of other people. How detailed are
14 those reasons?

15 MR. LEFKIN: Fairly detailed. We would
16 provide as much information -- you know, I think it's a
17 three- or four-page letter, which would indicate that
18 we've done all of our best efforts, indicate -- to
19 investigate whether or not a policy did, in fact, exist,
20 or was issued by Allianz or one of its subsidiaries at
21 that time. When we cannot find -- there is every
22 evidence -- if there's no evidence to indicate a policy
23 existed we can't pay a claim and we send a letter to
24 that effect. Now, we do have -- fortunately for us
25 right now is that we do know -- we're running into

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1 the -- you've enumerated a number of practical
2 difficulties associated with the claims process, and
3 we're very, very sensitive to that, and that's one of
4 the reasons why I think -- and I'd like to just talk
5 about the German Foundation Initiative, if I may at some
6 point, because --

7 MS. SUREAU: We're getting there, I assure
8 you.

9 MR. LEFKIN: Because we anticipate a large
10 number of -- you've identified a significant amount of
11 frustration at this hearing, and that's one of the
12 reasons why we have chosen, or the German government and
13 German industry, the Jewish survivor organizations have
14 chosen to use a humanitarian approach which I think is

15 going to build far better results than this claims
16 process, which is very, very confusing, very technical,
17 and obviously, it's not -- you are not arriving at the
18 same level of satisfaction as you would like from this
19 claims process.

20 MS. SUREAU: Okay, Mr. Lefkin, back to our
21 discussion of what happens when a claim is rejected, and
22 you were saying you -- that the company tries to give as
23 full a reason as it has, and you were describing a
24 three- or four-page letter that's sent to the claimant.
25 I assume that the rejection is -- well, in some
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1 instances, at any rate, would be based on documentation
2 that exists in the company's files.

3 MR. LEFKIN: Yes.

4 MS. SUREAU: Are copies of that
5 documentation provided to the claimant when the
6 rejection letter is sent?

7 MR. LEFKIN: In instances where we have it,
8 yes.

9 MS. SUREAU: So it is --

10 MR. LEFKIN: Many of the rejection letters
11 are, because the company -- there's never a policy
12 purchased from Allianz or any of its subsidiaries, at
13 which point we have no basis of corroborating it.

14 MS. SUREAU: Well, if there is no
15 documentation, certainly you can't send documentation.

16 MR. LEFKIN: Exactly.

17 MS. SUREAU: But if there is the company
18 does send it?

19 MR. LEFKIN: That's correct.

20 MS. SUREAU: Thank you.

21 MR. LEFKIN: There's also a basis of
22 appeals, too, as you might not know, as well, where --

23 MS. SUREAU: I'm sorry?

24 MR. LEFKIN: There's an appeals mechanism
25 that is contemplated both through the German Foundation
0114

1 Initiative and for ICHEIC, so it is not the final
2 resolution of this matter.

3 MS. SUREAU: That brings up a good point.
4 Now, you've heard Generali testify that in its rejection
5 letters it sends information about how to apply for an
6 appeal, how to appeal the denial. Does your company
7 also, or does Allianz also include that type of
8 information in the rejection letter?

9 MR. LEFKIN: Yes.

10 MS. SUREAU: The address where the claimant
11 has to write in order to perfect its appeal?

12 MR. LEFKIN: To my knowledge -- the best of
13 my knowledge, yes.

14 MS. SUREAU: Would you, just so that I can
15 nail everything down, would you check on that also, and
16 make sure that that's the case, and include that in the
17 information you send to us?

18 MR. LEFKIN: I'd be glad to do that.

19 MS. SUREAU: Thank you very much.

20 COMMISSIONER SENN: Actually, Mr. Lefkin,
21 I've see seen a couple of rejection letters from
22 Allianz, and I don't think they were more than a half a
23 page. So I'd be very interested in seeing one of your
24 three-page rejection letters with accompanying
25 documentation. You're welcome to black out the names,
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1 but I'd like to see a copy of one to give us a flavor of
2 what's in it.
3 MR. LEFKIN: Be glad to do so.
4 COMMISSIONER SENN: Also I want to ask you,
5 in terms of Allianz, I have information from the claims
6 process, and I know that you're going to get us that
7 data, but my understanding is that Allianz has received,
8 amongst the Fast-Track claims, 112, and there are zero
9 offers, and zero have been paid.
10 MR. LEFKIN: That's one of the reasons --
11 COMMISSIONER SENN: Is that correct?
12 MR. LEFKIN: Yes. I've explained that to
13 you in January, I thought, why that's the case. We
14 found in the German market places that 98, 99 percent of
15 all the policies have been paid in the past. And I know
16 you don't want us to engage in double payments because
17 that's not consistent with the purpose of ICHEIC or the
18 purpose of Washington State law. We're limited in our
19 payments to people who have unclaimed, unpaid policies.
20 COMMISSIONER SENN: So basically, given
21 that record, you don't have any expectation that you'll
22 be paying very many claims, because they've all been
23 paid in the past?
24 MR. LEFKIN: Not legal claims. I
25 anticipate we'll be paying humanitarian payments, in
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1 the context of the German Foundation Initiative, and
2 that's what I'm very enthused about.
3 COMMISSIONER SENN: Okay.
4 MS. SUREAU: Mr. Lefkin, I understand that
5 Allianz has engaged in a great deal of research and
6 sampling and various efforts to go through the process.
7 Through all that effort, can you tell me the estimated
8 number of Allianz policies that were related to
9 Holocaust victims, which were directly confiscated by
10 the Nazi authorities?
11 MR. LEFKIN: I don't have that information.
12 MS. SUREAU: Would that be something you
13 could provide to us?
14 MR. LEFKIN: I'd be happy and delighted to
15 investigate. What I would anticipate, if I make a
16 statistical basis, is that -- we do know that about
17 three-fourths of one percent of the population of
18 pre-1933 Germany was Jewish. We also know about 70
19 percent of the Jewish people emigrated from Germany
20 during the 1930's. We also know that about 90 -- 80 --
21 about 80 to 85 percent of the policies were surrendered
22 during the 1930's, in the face of both emigration as
23 well as severe persecution, which meant the loss of jobs
24 and livelihood. So the number of policies, we do know

25 the number of policies that are unclaimed and unpaid in
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1 Germany is fairly small.
2 MS. SUREAU: You've been giving me
3 percentages, and I appreciate that information. I'm
4 wondering if you, from those percentages, would be able
5 to extrapolate the information about how many policies
6 that would leave as supposedly still in existence during
7 the relevant period.
8 MR. LEFKIN: As I said, I don't know. I
9 will have to investigate that one, and I would probably
10 recommend to you that you might want to -- I've
11 recommended this to you for the last couple of years,
12 that you make efforts to --
13 MS. SUREAU: Well, not to me.
14 MR. LEFKIN: Okay, to the German regulatory
15 authorities. I mean, you have a lot better information
16 relating to the history of insurance assets in the Third
17 Reich than I or anyone probably from Allianz, and indeed
18 they're a responsible regulator, and they probably have
19 a cornucopia of knowledge and information that they
20 might be willing to provide to you.
21 MS. SUREAU: Well, it was just that you
22 seemed so knowledgeable about percentages that spoke
23 about one side of the story. I was wondering if you
24 could provide me with a number.
25 MR. LEFKIN: In terms of an aggregate
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1 number, I would have to sit here with a calculator and
2 figure this -- and figure it out, and I don't really
3 want to waste your time doing so. We could probably get
4 that information fairly easily. But I do know the
5 number of -- not -- the outstanding insurance policies
6 in Germany is presumed to be very, very small. And this
7 is identified in the German Foundation Initiative, where
8 200 million Deutsch Marks was provided for the direct
9 payment as well as administration expenses of the German
10 insurance marketplace, and this was anticipated that
11 this 200 million Deutsch Marks would be more than enough
12 to cover all outstanding claims, as well as the cost of
13 processing those claims.
14 MS. SUREAU: I just want to take you back
15 to the beginning of your statement. When you say it was
16 presumed that this was so. I was wondering what was
17 that presumption based on?
18 MR. LEFKIN: Based upon, you know,
19 actuarial, statistical assumptions that were worked out
20 over periods of months and months with Mr. Eizenstat and
21 representatives of the Jewish Materials Claims
22 Conference, and representatives of the State of Israel
23 and representatives, frankly, of the plaintiffs'
24 attorneys. You have painstaking negotiations trying to
25 determine the amount and exposure of liabilities
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1 relating to German insurance companies during the
2 Holocaust period -- during the Holocaust. And they
3 reached an agreement on approximately 200 million

4 Deutsch Marks which they felt, and this includes the
5 Jewish organizations, would be more than adequate to
6 take care of the cost of direct compensation to policy
7 holders and their heirs, as well as the costs of
8 administration of those policies.

9 MS. SUREAU: I'm getting a little ahead of
10 myself, but I will ask this one question, and hopefully
11 it won't put us astray. You mentioned administrative
12 costs. Do you have any idea what percentage of the
13 amount allocated to the BEG has been expended on
14 administrative costs thus far?

15 MR. LEFKIN: No, no money has been
16 allocated to the BEG. BEG operates as an insurance
17 regulator.

18 MS. SUREAU: Thank you for that correction.
19 The German Foundation?

20 MR. LEFKIN: No, the German Foundation
21 Initiative has not spent any money thus far. What they
22 have anticipated, certainly in the context of the
23 insurance, is that ICHEIC would be a partner
24 organization. And they will work with ICHEIC and they
25 are currently engaged in discussions with ICHEIC

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1 relating to the appropriate role and how they best could
2 coordinate their efforts.

3 MS. SUREAU: So to the best of your
4 knowledge, no administrative costs have been incurred to
5 date?

6 MR. LEFKIN: No, not directly -- not from
7 the German Foundation, no.

8 MS. SUREAU: Who has been paying those
9 administrative costs?

10 MR. LEFKIN: To ICHEIC?

11 MS. SUREAU: Of whatever entities or
12 persons have been acting on behalf of the German
13 Foundation.

14 MR. LEFKIN: Well, right now it's been the
15 German government. I mean, the foundation is getting
16 off the ground currently, and it's anticipated -- this
17 is a great program. This is a great thing. You have a
18 ten billion Deutsch Mark fund which is designed to
19 provide compensation to approximately one million
20 people, throughout all of Europe. Most of them -- many
21 of them live in Eastern Europe and live in terrible
22 financial conditions. And this is -- the money is being
23 collected currently by both the German government and
24 German industry to provide resolution to all outstanding
25 obligations arising from the Third Reich.

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1 MS. SUREAU: Can you tell me what the
2 current ICHEIC rule is about the validity of claims on
3 Nazi confiscated policies?

4 MR. LEFKIN: That has not been determined.
5 That's probably one of the matters that's being
6 discussed, being debated currently and it's also being
7 discussed, frankly, with the German Foundation
8 Initiative, or the GVD, which is the German Insurance

9 Association, which is currently in charge -- we're
10 trying to develop with ICHEIC how the German claims are
11 best going to be resolved.

12 MS. SUREAU: Now, if -- I'm asking you a
13 hypothetical, but again, that's in the nature of
14 lawyers. If such claims were otherwise valid according
15 to ICHEIC standards, would Allianz pay it? Would it be
16 Allianz' position that it would pay such claims?

17 MR. BORGERSEN: I'm not sure I understand
18 the question.

19 MR. LEFKIN: I don't understand your
20 question.

21 MS. SUREAU: Okay. Policies that were
22 confiscated under the Nazis, Nazi confiscated policies,
23 I understand that ICHEIC has not agreed on standards,
24 how to handle such policies.

25 MR. LEFKIN: Right.

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1 MS. SUREAU: What I'm asking you is, aside
2 from ICHEIC standards, if such claims are otherwise
3 valid according to ICHEIC standards, aside from the
4 issue of confiscation, would Allianz pay those claims?

5 MR. LEFKIN: That's hypothetical. I don't
6 know --

7 MR. BORGERSEN: Are you saying if policies
8 were confiscated, and paid?

9 MR. LEFKIN: If they were confiscated by
10 the Nazi government, you're saying --

11 MS. SUREAU: And payment was made to the
12 Nazi government. Correct.

13 MR. LEFKIN: Well, they probably -- I would
14 imagine -- what the German Foundation Initiative
15 contemplates would be, is a humanitarian gesture towards
16 those claimants. Under German law those policies are
17 perceived as paid, and after World War II you should
18 know that persons who had their policies confiscated
19 were eligible for restitution. And about a 120 billion
20 Deutsch Marks was expended in German restitution between
21 1952 and the current day.

22 MS. SUREAU: Well, was that for insurance
23 policies?

24 MR. LEFKIN: It covered all category of
25 assets and included insurance as well, yes.

0123

1 MS. SUREAU: Can you tell me the estimated
2 number of Allianz policies related to the Holocaust
3 victims that were paid into blocked accounts?

4 MR. LEFKIN: No.

5 MS. SUREAU: Would you be able to determine
6 that information?

7 MR. LEFKIN: I will try, but I don't know
8 if I could or not.

9 MS. SUREAU: Why is that a difficulty? I
10 don't understand.

11 MR. LEFKIN: I don't know -- I don't --
12 there's no magic -- I -- one of the reasons why we went
13 into the German Foundation Initiative is the tremendous

14 difficulty of trying to assemble records after records
15 after records, half of which we don't -- or have been
16 destroyed, were destroyed during World War II, and also
17 the difficulties in trying to compile this information.
18 A good number of those policies that we know, about
19 two-thirds of them are very small policies, 2,000 Reichs
20 Marks or less, or 1,000 Reichs Marks or less. And we
21 found ourselves expending enormous amounts of money
22 trying to provide and getting very, very little out to
23 the claimant, and what we're trying to do right now with
24 the German Foundation Initiative is provide a more
25 humanitarian-based approach in partnership with the

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1 Jewish organizations. And I think this is a new
2 paradigm that we're working from, and I think this is an
3 agreement -- and I know Commissioner Senn has tremendous
4 respect for Mr. Eizenstat, and this is why we work so
5 closely with him. Because I think we have achieved so
6 much here.

7 MS. SUREAU: Do you know what the current
8 ICHEIC rule is with regard to the validity of claims on
9 policies placed in blocked accounts?

10 MR. LEFKIN: No rule has been established.

11 MS. SUREAU: Thank you.

12 COMMISSIONER SENN: Mr. Lefkin, you spoke
13 for a moment on the reason that so few claims have been
14 paid because of the restitution actions and the actions
15 of BEG after the war. So we would like to have a feel
16 for the numbers that you are talking about.

17 MR. LEFKIN: A 120 billion Deutsch Marks.

18 COMMISSIONER SENN: Can I finish my
19 question?

20 MR. LEFKIN: Surely.

21 COMMISSIONER SENN: Thank you, Mr. Lefkin.

22 MR. LEFKIN: Thank you, Commissioner Senn.

23 MR. FRIEDMAN: Excuse me, Commissioner?

24 Could I make a clarification on something?

25 COMMISSIONER SENN: Sure, John.

0125

1 MR. FRIEDMAN: The money which was paid by
2 the insurance companies and confiscated by the German
3 government, and then were part of the restitution, was
4 basically the cash value. It was not the total amount
5 of the insurance was based on. In other words, it was
6 not the total payment, if the person would have died,
7 and then would have made a claim. It was a cash value
8 at that time.

9 COMMISSIONER SENN: Is that correct,
10 Mr. Lefkin?

11 MR. LEFKIN: I don't know. I presume so,
12 and I would like to provide a further elaboration why.
13 I mean, you have -- in many instances, you're dealing
14 with life insurance policies, in many instances we do
15 know, in restitutions, individuals by virtue of terrible
16 financial circumstances, suffered through severe
17 persecution, were forced to either terminate their
18 policies prematurely, or alternatively, stop making

19 policy payments after a certain number of years, because
20 they could not afford to do so, or they emigrated from
21 the country.

22 COMMISSIONER SENN: So can you tell us the
23 number and total sum of the face values of life
24 insurance policies written by Allianz that were settled
25 through post-war German compensation programs?

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1 MR. LEFKIN: I cannot.

2 COMMISSIONER SENN: You cannot?

3 MR. LEFKIN: I cannot.

4 COMMISSIONER SENN: Can the company?

5 MR. LEFKIN: I'll have to investigate. I
6 presume the German government might have that
7 information. The German government -- Allianz did not
8 make restitution. The German government was responsible
9 for the restitution programs. And German government
10 assumed all obligations for the insurance marketplace,
11 because as you know, Mrs. Senn, during World War II,
12 what typically happened was, the German government went
13 to the insurance companies, and all those policies that
14 were still on the books, they went in and seized those
15 policies, the assets of those policies, both banking and
16 insurance. After World War II, is, what they did was
17 they -- under restitution, the German government, since
18 they had -- the Nazi regime had seized the policy
19 assets, they maintained the obligation to make payments.
20 And all direct money, the 120 billion dollars -- billion
21 Deutsch Marks in restitution came exclusively from the
22 German government and not from Allianz or any other
23 private entity. Allianz paid on all private policies,
24 they were not confiscated by the German government.

25 COMMISSIONER SENN: Do you know the

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1 estimated percentage for Allianz of unpaid Holocaust
2 related policies that were not subject to proceedings
3 under the BEG, or other German government compensation
4 authority?

5 MR. LEFKIN: No.

6 COMMISSIONER SENN: Does the company have
7 that information?

8 MR. LEFKIN: I will investigate.

9 COMMISSIONER SENN: Did the company
10 cooperate with the German government in researching and
11 determining the post-war claim settlement? Was Allianz
12 involved in the process?

13 MR. LEFKIN: Yes.

14 COMMISSIONER SENN: So then they must have
15 some data, because they had had to use some formula or
16 bases by which the government made payments.

17 MR. LEFKIN: I suspect they do, but I also
18 suspect it's fragmentary.

19 COMMISSIONER SENN: You suspect what?

20 MR. LEFKIN: It's -- they have data, but I
21 also suspect it's fragmentary.

22 COMMISSIONER SENN: So if you get a letter
23 of a claim for some family that was -- received some

24 restitution, do you investigate whether that restitution
25 covered their insurance policy?

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1 MR. LEFKIN: Yes.

2 COMMISSIONER SENN: Or whether or not they
3 just participated in the BEG process?

4 MR. LEFKIN: No, both. I mean, they -- you
5 investigate whether or not they were compensated under
6 restitution. And there's a whole category of property
7 compensation; insurance is one of them.

8 COMMISSIONER SENN: So we have, for
9 example, one claimant who received a letter saying the
10 fact that they participated in the BEG process obviates
11 their claim. Can I assume then that you've established
12 that they were paid for their insurance?

13 MR. LEFKIN: Probably, yes.

14 COMMISSIONER SENN: And you investigated
15 that?

16 MR. LEFKIN: I can't -- I mean, I'm here
17 to -- I thought I was here to testify on a rule-making.
18 I'm not an expert on German restitution law, Mrs. Senn.
19 I truly am not. I wish I was. I wish you brought
20 somebody from Germany here, from the German government
21 who could answer all these questions. You simply cannot
22 expect an American lawyer who participates in a hearing
23 like this to be -- have the investigative knowledge of
24 how a 1954 German restitution program operated.

25 COMMISSIONER SENN: Well, it is the Allianz
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1 that is citing the German restitution program as the
2 reason why they are not liable for claims, so it seems
3 to me you ought to know how it operates.

4 MR. LEFKIN: I could know how it operates
5 in general terms, but the specificity of the program is
6 something I have -- I can't -- do not know, and I'll
7 have to say that on the record.

8 COMMISSIONER SENN: Well, you are the
9 representative of --

10 MR. LEFKIN: I'm representative of
11 Fireman's Fund.

12 COMMISSIONER SENN: I see. This is about
13 the third time we've asked you this question, you know,
14 at each hearing, and we do need this information.

15 MR. BORGERSEN: Could you make your
16 questions specific for the record, this question?

17 COMMISSIONER SENN: Okay. The question is,
18 by what process do you determine that a relationship --
19 and I use that term loosely -- with the BEG in the past
20 obviates an insurance claim?

21 MR. BORGERSEN: I think it's too broad a
22 question.

23 MR. LEFKIN: I can't answer that question.

24 MR. BORGERSEN: I would object to the form
25 of the question. It's far too broad.

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1 COMMISSIONER SENN: Well, let me -- Okay.

2 Can you provide us with the number and total sum of the

3 face values of life insurance policies written by
4 Allianz that were settled through post-war German
5 compensation programs?
6 MR. BORGERSEN: I think we indicated we'd
7 try to get you that information.
8 MR. LEFKIN: Absolutely.
9 COMMISSIONER SENN: Well, let me -- can I
10 have the letter from our claimant?
11 (A discussion was held off the
12 record.)
13 MS. SUREAU: I was struck by one thing you
14 said, Mr. Lefkin, about when Allianz rejects a claim
15 because it was already compensated in the German
16 program. And you said that you checked to see whether
17 insurance was one of the matters that was compensated.
18 How is that determination made; do you know?
19 MR. LEFKIN: Working in consultation with
20 the German government and the archival authorities and
21 the German insurance regulators.
22 MS. SUREAU: But do you know -- I mean, the
23 kind of answer I'd like to have is, you could tell me
24 well, the German authorities, they have boxes that they
25 check, or places where they write in the information, I
0131
1 mean, specific -- do you know specifically?
2 MR. LEFKIN: They do a spot -- I mean, I do
3 know they -- there are multiple points of information in
4 Germany relating to claims from this period of time and
5 they try to sort out each one, potential one, to get the
6 necessary information to corroborate a claim.
7 MS. SUREAU: Okay. But do you know what it
8 looks like, in the German records? So your company gets
9 a claim, and it goes to the German authorities and it
10 says we've gotten this claim, and we want to determine
11 whether this policy was compensated by the German
12 authorities.
13 MR. LEFKIN: That's correct.
14 MS. SUREAU: Now, do you have any
15 information about how that determination -- how the
16 determination is made by the German authorities?
17 MR. LEFKIN: No. I mean, the German
18 authorities probably -- I mean, it's a -- you know,
19 it's very responsible regulatory body.
20 MS. SUREAU: I'm not questioning that. I
21 was just curious as to the specifics of the process.
22 It -- I would like to know whether we can rely on the
23 conclusion that insurance was part of the compensation.
24 MR. LEFKIN: Can I suggest to you -- I've
25 suggested this probably 20 times in the last two
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1 years -- is you try to make contact with the German
2 regulatory authorities.
3 MS. SUREAU: Mr. Lefkin, let me ask you
4 this. Short of us doing that, would it be possible for
5 your company to provide us with that information? Let
6 me just say one further thing. I assume that your
7 company believes it can rely on the statement of the

8 German authorities, that indeed insurance was part of
9 the compensation to this claimant.

10 MR. LEFKIN: Yes.

11 MS. SUREAU: If that's the case, I assume
12 that you have some reason for that confidence.

13 MR. LEFKIN: Yes.

14 MS. SUREAU: So I assume that someone in
15 your organization has checked it out and has made the
16 determination as to how the German authorities have come
17 to this conclusion. So if you have that information,
18 Mr. Lefkin, if you would supply it to us, I would
19 appreciate it.

20 MR. LEFKIN: I'd be delighted to send you
21 as much information as I possibly can.

22 MR. BORGERSEN: So I understand your
23 inquiry, you want Allianz to provide you what
24 information they have concerning what the German
25 government does when they receive an indication of a
0133 potential claim?

1 MS. SUREAU: Specifically with respect to
2 insurance. I'd like to know how it's delineated from
3 other types of property, and assets, that were
4 compensated for.

5

6 COMMISSIONER SENN: Let me once again
7 repeat the questions, so you'll know that they are
8 specific enough for your determination. I've said it
9 once. Can you provide us with the number and total sum
10 of the face values of life insurance policies written by
11 Allianz that were settled through post-war German
12 compensation programs?

13 MR. LEFKIN: I will investigate that matter
14 for you, Commissioner Senn.

15 COMMISSIONER SENN: Okay. And we know that
16 this data does exist, that it is given to the German
17 regulator. Okay. And what is the estimated percentage
18 for Allianz of unpaid Holocaust related policies that
19 were not subject to proceedings under the BEG or other
20 German compensation authority?

21 MR. LEFKIN: I will investigate that for
22 you, Commissioner Senn.

23 COMMISSIONER SENN: Thank you very much.
24 Now, let me read to you a letter that was sent to a
25 claimant in our state: "As you may be aware we've
0134 recently received your claim from the Washington State
1 Insurance Commission. It appears from the information
2 that you provided in your claim form that there has been
3 a previous application for compensation for the attached
4 insurance policy through the BEG. In accordance with
5 the Commission's guidelines, claims that were subject to
6 the BEG cannot be resubmitted through the Commission's
7 claims process. This applies regardless of whether you
8 received a final -- received a payment, a part payment,
9 or even a denial as all BEG decisions are regarded in
10 German law as final."
11
12 So I have a claimant who may have applied a

13 decade or two ago on their insurance claim, and other
14 claims, and for reasons that we don't know, was
15 denied -- could be because of some other claim -- the
16 fact that they made an application renders them
17 ineligible for filing an insurance claim under the
18 ICHEIC proceedings? Is that my --
19 MR. LEFKIN: I don't know all the facts. I
20 really have got to do an investigation. That's a
21 hypothetical, and I --
22 COMMISSIONER SENN: No it's not, it's a
23 letter.
24 MR. LEFKIN: I can't re -- I don't know all
25 the facts regarding the policyholder. I really cannot
0135 respond unless I know all the facts.
2 COMMISSIONER SENN: So let me ask you a
3 question then. If you were to get a claim from --
4 through the ICHEIC or from a regulator for a claimant
5 who had made application to the BEG, had received no
6 restitution, but had an insurance policy, would you
7 process that claim?
8 MR. LEFKIN: It's hypothetical. And I
9 can't answer that question. I would process the claim,
10 certainly investigate it, yes, absolutely do an
11 investigation on that claim.
12 COMMISSIONER SENN: But would you reject it
13 based on the fact that they made an application to the
14 German government some years ago?
15 MR. LEFKIN: No, it depends upon
16 multiple -- there's many different restitution programs
17 too, there's the BEG and there's other restitution
18 programs. I am not an expert in German restitution and
19 I probably can't respond to that question right now.
20 But the logical presumption governing Allianz and the
21 entire panoply of the German industry is all unclaimed,
22 unpaid policies will be paid. And that's why they have
23 submitted a fund of 550 million Deutsch Marks, to
24 provide compensation for those policies and humanitarian
25 payments.
0136 MS. SUREAU: Okay, Mr. Lefkin, could you
1 tell me the total amount contributed or pledged to the
2 German fund by Allianz and its affiliated companies?
3 MR. LEFKIN: That's a formula that's
4 currently being worked out among the German Insurance
5 Association, but it's 550 million Deutsch Marks for the
6 insurance fund, ten billion Deutsch Marks for the
7 panoply of all compensations, slave and forced labor,
8 banks, and other assets.
9 MS. SUREAU: And can you tell me -- so it's
10 a formula that's in process of being worked out?
11 MR. LEFKIN: In terms of the insurance
12 contribution, we know that it's 550 million German
13 Deutsch Marks.
14 MS. SUREAU: I understand that.
15 MR. LEFKIN: But in terms of Allianz'
16 specific contribution, it's dependent on how many
17

18 companies joined the German Foundation.
19 MS. SUREAU: And when will that be
20 determined?
21 MR. LEFKIN: It's currently going on right
22 now. Probably the next couple of months -- two or three
23 months or so. There is a general pledge on behalf of
24 all the German companies to make this thing work, but in
25 terms of specific contributions, it's going to be based
0137 on a variety of formula, probably market share and so
1 forth. I mean, as you know, Allianz represents about
2 fifteen percent of the German marketplace.
3 MS. SUREAU: Okay. And you expect that
4 formula to be determined within the next two or three
5 months; is that accurate?
6 MR. LEFKIN: I would anticipate so, yes.
7 But I don't -- the money will be there.
8 MS. SUREAU: Good. Does the German
9 agreement cover RAS?
10 MR. LEFKIN: Yes.
11 MS. SUREAU: So RAS is considered a German
12 company?
13 MR. LEFKIN: No, the agreement covers
14 German companies and their non-German subsidiaries.
15 MS. SUREAU: Thank you. Mr. Lefkin, if I
16 could read from a statement made by Deputy Treasury
17 Secretary Eizenstat on November 16, and it's a quote, "I
18 encourage the German Insurance Association to reach an
19 agreement with ICHEIC as soon as possible. We believe
20 ICHEIC should be recognized as the exclusive remedy for
21 resolving all insurance claims that relate to the Nazi
22 Era." Can you tell me what the status of negotiations
23 is to create the linkage between the Foundation and
24 ICHEIC?
25
0138 1 MR. LEFKIN: Yeah, there's been a series of
2 discussions. The German Insurance Association has met
3 actually just last week with Mr. Eagleburger and
4 Mr. Fitchew in Rome to discuss the terms and conditions
5 of a partnership agreement.
6 MS. SUREAU: And do you know how that
7 discussion went?
8 MR. LEFKIN: Productive. I think there
9 are -- my impression was that both sides feel that they
10 made progress. There are some issues that are found to
11 be resolved, but I wasn't privy to the discussions
12 beyond the -- what I did hear from the German Insurance
13 Association that they feel that they will ultimately
14 achieve agreement with Mr. Eagleburger.
15 MS. SUREAU: Did you get a sense of how
16 long they expect this to take?
17 MR. LEFKIN: No, I think everybody is
18 motivated by a genuine desire to get this thing
19 resolved, because foremost in all of our minds is the
20 survivor population. We have ten billion Deutsch Marks
21 that we want to distribute, or the German industry wants
22 to distribute to survivors, and it's estimated one

23 million people will receive compensation. And as I've
24 indicated before, a number of these people, particularly
25 those in Eastern Europe, are in desperate need of this

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1 type of financial assistance.

2 MS. SUREAU: And do you have a sense of
3 what the problems are that still exist that need to be
4 resolved before this linkage can occur?

5 MR. LEFKIN: No. I have not been privy to
6 those conversations as to the German Insurance
7 Association.

8 MS. SUREAU: Allianz is a member of ICHEIC;
9 is that correct?

10 MR. LEFKIN: That's correct.

11 MS. SUREAU: So through that membership are
12 you privy to an understanding of the problems that still
13 exist?

14 MR. LEFKIN: No, I do know that -- I can
15 emphasize this, is that the German Insurance Association
16 is headed by a gentleman by the name of Baron
17 VonFurstenburg, and he has been leading the delegation
18 and leading the negotiations with Mr. Eigelburger and
19 Mr. Fitchew. Allianz has played a very limited role,
20 only merely as a facilitator in the early meetings
21 because they knew both parties, but the primary
22 negotiation points are coming from Mr. VonFurstenburg,
23 whose operations are headquartered in Berlin.

24 MS. SUREAU: So no one reported to you
25 about the Rome proceedings on behalf of either ICHEIC or

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1 the German --

2 MR. LEFKIN: No, I did read the Financial
3 Times story and so forth, so I do -- I'm aware of what's
4 going on, but I have not spoken to Mr. VonFurstenburg.

5 MS. SUREAU: Thank you. Now, as a member
6 of ICHEIC, does Allianz believe that the German insurers
7 as a whole should formally join ICHEIC and sign the
8 memorandum of understanding?

9 MR. LEFKIN: Allianz believes that the
10 Foundation initiative contemplates that ICHEIC would be
11 a partner organization. Doesn't necessarily contemplate
12 a specific membership role. But what they're
13 anticipating, frankly, is something along very similar,
14 resembling the Dutch Sjoa Foundation, where they are a
15 partner organization, rather than a specific member.
16 But this is something that is being worked upon right
17 now between Mr. Fitchew, Mr. Eagleburger, and Mr.
18 VonFurstenburg.

19 MS. SUREAU: Now, this is probably due to
20 my ignorance, but I understood that the Dutch
21 association was also a member. Is that not correct?

22 MR. LEFKIN: Different type of membership
23 status. I would anticipate they're more of a
24 partnership organization. They operate under rules that
25 are not necessarily identical to the rules that have

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1 been established for the ICHEIC members itself.

2 What you should know, under the terms and
3 conditions of the German-American treaty, and it's also
4 a treaty signed by 16 other governments and 23 Jewish
5 organizations, the ICHEIC company -- all claims will be
6 processed according to ICHEIC standards that were
7 promulgated as of July 17th last year, when the
8 agreement was signed by President Clinton and Chancellor
9 Schroeder.

10 MS. SUREAU: And how about the Memorandum
11 of Understanding? Does Allianz believe that the German
12 insurers should sign that?

13 MR. LEFKIN: Allianz is not in a position
14 to recommend a position to their competitors.

15 MS. SUREAU: I didn't mean to suggest that
16 it was, and that was not my question.

17 MR. LEFKIN: Allianz is committed to the
18 Memorandum of Understanding as a company.

19 MS. SUREAU: So Allianz' position would be,
20 it would like to see the German insurers sign the
21 Memorandum?

22 MR. LEFKIN: No you're putting words in my
23 mouth.

24 MS. SUREAU: I don't mean to. I'm just
25 trying to interpret what you're saying.

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1 MR. LEFKIN: Allianz has encouraged the
2 German Insurance Association to work towards a fast and
3 meaningful agreement with Mr. Eagleburger so we can get
4 on to the business of dividing humanitarian payments to
5 Holocaust survivors.

6 MS. SUREAU: Okay. But with respect to the
7 Memorandum of Understanding, what is Allianz' position?

8 MR. LEFKIN: Allianz has signed the
9 Memorandum of Understanding.

10 MS. SUREAU: And as a German company, a
11 German insurer, does Allianz have a position with
12 respect to what the German insurers as a whole should do
13 with respect to the Memorandum of Understanding?

14 MR. LEFKIN: No. We've encouraged -- our
15 position is to encourage fast partnership negotiations
16 and discussion points between the German Insurance
17 Association and the International Commission. But we
18 have not taken a position vis-a-vis whether or not they
19 should sign the Memorandum of Understanding.
20 Mr. VonFurstenburg probably can respond to that.

21 MS. SUREAU: Thank you. Now, if no
22 agreement can be reached between ICHEIC and the German
23 insurers, how would insurance claims against German
24 companies proceed?

25 MR. LEFKIN: Well, the Allianz would

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1 certainly commit -- it said it's committed and -- to the
2 terms and conditions that have been promulgated by
3 ICHEIC and to the Memorandum of Understanding. The
4 remainder of the German industry, I cannot respond.
5 They're not legally obligated to abide by ICHEIC rules
6 and procedures.

7 One of the great benefits, frankly, of the
8 German Foundation, as we have said, is that 85 -- it
9 brings in the 85 percent of the German companies or the
10 German premium that has not been written, that is not
11 currently written by ICHEIC companies. It brings in a
12 vast array of new resources into this matter.

13 MS. SUREAU: So you cannot respond to the
14 question, in other words? I mean, the question was, if
15 no agreement can be reached between ICHEIC and the
16 German insurers, how will insurance claims against the
17 German companies proceed, and you gave me Allianz'
18 position, but you can't --

19 MR. LEFKIN: I cannot respond for the rest
20 of the German industry.

21 MS. SUREAU: I understand, thank you.

22 Now, if no other German insurers formally join
23 ICHEIC, will Allianz remain in its present status as a
24 full participant of the Commission and stand by the
25 Memorandum of Understanding signed in 1998 and the

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1 claims and valuation standards ICHEIC adopted to date?

2 MR. LEFKIN: I would anticipate so, yes.

3 MS. SUREAU: Thank you.

4 COMMISSIONER SENN: Let me talk about
5 publication of names. That's our last section, Mr.
6 Lefkin. How many Allianz names currently appear on the
7 ICHEIC WEB site?

8 MR. LEFKIN: I don't know.

9 COMMISSIONER SENN: You don't know?

10 MR. LEFKIN: I don't know.

11 COMMISSIONER SENN: Last January, we talked
12 about the strong privacy laws in Germany. And we know
13 that the Dutch insurers have worked to loosen the
14 privacy laws in their country to publish names. What
15 have you done to try to loosen the privacy laws in
16 Germany so that the names can be published?

17 MR. LEFKIN: I have done nothing, but I
18 don't know what Allianz has done.

19 COMMISSIONER SENN: Do you know if there
20 are any -- you said you do not know if there are any
21 Allianz names on the --

22 MR. LEFKIN: I know there are some, but I
23 can't give you a specific number. As we identify in
24 claim policies, I know we are providing that information
25 to ICHEIC so it can be published, but we're limiting

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1 this to unclaimed, unpaid policies.

2 COMMISSIONER SENN: Were those names
3 published on the WEB site, were they matched at Yad
4 Vashem?

5 MR. LEFKIN: They may or may not. I mean,
6 as you -- you've -- as you've heard from Mr. Bowers and
7 Mr. Schnabl, I mean, the Yad Vashem names and the list
8 of Holocaust survivors is generally synonymous but not
9 entirely identical.

10 COMMISSIONER SENN: Is the analysis of
11 Allianz names by Yad Vashem governed by any written

12 agreement or contract?
13 MR. LEFKIN: If there is a written
14 agreement and contract, it's governed -- it's an ICHEIC
15 contract, because we provided the names to the London
16 office of ICHEIC.
17 COMMISSIONER SENN: And you said you've
18 submitted a hundred thousand names to Yad Vashem. What
19 is the --
20 MR. LEFKIN: It's my understanding a
21 hundred thousand names to ICHEIC.
22 COMMISSIONER SENN: Which they will in turn
23 send to Yad Vashem?
24 MR. LEFKIN: As I understand Yad Vashem is
25 suffering a tremendous backlog in processing.
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1 COMMISSIONER SENN: So do you have any
2 target date in mind for the publication of the names or
3 completion of the process?
4 MR. LEFKIN: No. A lot of it depends upon,
5 you know, progress ICHEIC -- Yad Vashem faces, which
6 tends to be right now both logistical as well as
7 financial.
8 COMMISSIONER SENN: Last week ICHEIC
9 announced that they will publish about 21,000
10 policyholder names discovered in German archives
11 containing Nazi Era documents related to the theft of
12 insurance policies and other properties from Jews. Do
13 you know if any of these names are of Allianz
14 policyholders?
15 MR. LEFKIN: I would anticipate they would
16 be, yes.
17 COMMISSIONER SENN: Do you know how many?
18 MR. LEFKIN: I would anticipate anywhere
19 between 10 -- 11 and 13 percent of those, just given the
20 market share of Allianz during that time.
21 COMMISSIONER SENN: Does it seem troubling
22 to you that the archives and the archival research is
23 yielding Allianz names faster than Allianz is?
24 MR. LEFKIN: I'm not -- I'm confused. I
25 don't understand your question.
0147
1 COMMISSIONER SENN: Well, you've said that
2 there will be -- that 10 to 13 percent of these names
3 will come from Allianz. Is that about the same amount
4 that Allianz has --
5 MR. LEFKIN: That, I don't know. What I do
6 know is that Allianz has fulfilled all of -- we've
7 reached an agreement with Mr. Bobby Brown, who is the
8 prime minister of Israel's -- Special Representative for
9 Foreign Affairs, and we'll certainly abide by the terms
10 of that agreement. We've also known that the
11 publication of names is, it tends to be -- it's
12 fragmentary, the lists are not there, names are not
13 necessarily representative, 99 and a half percent of the
14 names we have in the archives are not people who were
15 persecuted during the Holocaust. 98 percent of the
16 people that were persecuted were paid either directly by

17 the insurance company, or through restitution. It's a
18 very, very difficult process to try to comb through
19 these names.
20 COMMISSIONER SENN: Has ICHEIC addressed
21 the issue of non-life insurance claims at all?
22 MR. LEFKIN: It's my understanding no.
23 COMMISSIONER SENN: And do you have any
24 unpaid claims relating to property damage as a result of
25 Kristallnacht?
0148
1 MR. LEFKIN: My understanding, no.
2 COMMISSIONER SENN: Thank you very much,
3 Mr. Lefkin. Gentlemen, thank you very much.
4 MR. BORGERSEN: Do you have a list of the
5 things that you want?
6 MS. SUREAU: I will put one together.
7 MR. BORGERSEN: Could you?
8 MS. SUREAU: And we'll provide it to you.
9 COMMISSIONER SENN: Based on the
10 transcript.
11 MR. BORGERSEN: Thank you. I don't know if
12 I got all of the --
13 MR. LEFKIN: And do you have a copy of the
14 German Foundation Initiative agreements? I presume that
15 you do. I'd be delighted to provide that to you because
16 we think that provides --
17 COMMISSIONER SENN: That would be great.
18 MR. LEFKIN: -- legal fees for German
19 companies and their subsidiaries.
20 MS. SUREAU: That would be a help. Thank
21 you, Mr. Lefkin.
22 COMMISSIONER SENN: Thank you for coming.
23 MR. LEFKIN: It's been delightful.
24 COMMISSIONER SENN: Okay. I think we're
25 going to keep going just because I think we should wind
0149
1 up fairly quickly. Winterthur, Mr. Kreger.
2
3 TESTIMONY BY WINTERTHUR REPRESENTATIVE
4 MR. KREGER: Good evening, Commissioner.
5 My name is Brian Kreger. I'm with the law firm of Ryan,
6 Swanson and Cleveland, and I'm here on behalf of
7 Winterthur Insurance Group.
8 I've given to the reporter a copy of
9 Dr. Thalmann's letter to you for the record, in which he
10 indicates his regret for not being here. He had other
11 scheduling problems, and Klaus Huetten, with whom I'm
12 been working, was engaged in a pretty sensitive -- I
13 guess what amounts to mediation today, and was unable to
14 come also. So they have informed me that I should come
15 and present the letter and the attachment on their
16 behalf, in which Dr. Thalmann indicates Winterthur's
17 participation in good faith in the ICHEIC process, and
18 attached to that letter is Chairman Eagleburger's
19 October 11, I believe is the date, letter to members of
20 Congress in which he describes in pretty fair detail the
21 progress of the ICHEIC claims process to date. And with

22 those two documents, I would simply present them on
23 behalf of Winterthur.

24 COMMISSIONER SENN: Can I see that letter?
25 (Brief pause in the proceedings.)

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1 COMMISSIONER SENN: I guess, Mr. Kreger, I
2 appreciate Mr. Thalmann's cooperation in the past. I'm a
3 little bit on the spot here because Mr. Lefkin and
4 Generali did make the trip; Mr. Carnicelli did make the
5 trip. If I ask you the questions you've heard, do you
6 know that information?

7 MR. KREGER: I do not. I could answer
8 perhaps in general terms some numbers of claims -- or,
9 rather inquiries submitted to Winterthur, and I think
10 perhaps Dr. Thalmann has referred to some of those. But
11 to beyond that, I have no direct knowledge.

12 COMMISSIONER SENN: And what is -- go
13 ahead. Tell us what you know.

14 MR. KREGER: Well, why don't you ask me the
15 question, see if I can --

16 COMMISSIONER SENN: How many claims has
17 Winterthur received?

18 MR. KREGER: The term "claims," as Chairman
19 Eagleburger indicates, is a pretty loose term which is
20 really more in the nature of inquiries than claims, as I
21 understand. And on the Fast-Track process, as of the
22 date of both Dr. Thalmann's letter and Chairman
23 Eagleburger's letter there were 908 claims presented to
24 to ICHEIC through the Fast-Track process. And of that
25 908, only one involved Winterthur Insurance Group. That

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1 claim predated the ICHEIC Fast-Track process, but
2 because of the nature of the inquiry, or the progress at
3 the time the Fast-Track process was initiated they
4 thought it best to put it into the Fast-Track process
5 for that extra level of review. So the answer, on the
6 Fast-Track is that there's one out of 908 claims.

7 On the main claims process, as of the date of
8 Dr. Thalmann's letter, there were 140,000 inquiries made
9 to ICHEIC on the regular claims process. I believe
10 there are 55,000 claims -- registered claims in some
11 progress, and again, I'm not familiar with the details
12 of the claims progress, but 55,000 of the 140,000 were
13 registered --

14 COMMISSIONER SENN: This is the whole
15 process?

16 MR. KREGER: The whole process.

17 COMMISSIONER SENN: I just want to
18 know about Winterthur.

19 MR. KREGER: I'm getting there. And of
20 those 55,000, fourteen named Winterthur along with
21 another company as an inquiry, that is, Winterthur along
22 with at least one other company was named to look at a
23 claim. Only two of those claims have actually been
24 specifically directed to Winterthur. And both of those
25 claims are still in investigation process at this point.

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1 COMMISSIONER SENN: Do you know the number
2 of pre-war policies in force?
3 MR. KREGER: No, I don't.
4 COMMISSIONER SENN: We had quite a
5 discussion about that last time. I just wanted to
6 follow up.
7 Okay. I think what we'll do is, we'll give you
8 some of these questions after, and --
9 MR. KREGER: That would be fine. As
10 Dr. Thalmann says, we would -- I will present any
11 question to the company that you may have, and we'll
12 attempt to provide supplemental information.
13 COMMISSIONER SENN: Okay. Thank you, sir.
14 MR. KREGER: Okay. Thank you.
15 COMMISSIONER SENN: Finally we have AXA.
16 Mr. Sorensen.
17
18 TESTIMONY BY AXA REPRESENTATIVE
19 MR. SORENSEN: Thank you, Commissioner
20 Senn. My name is Mel Sorensen. I'm an attorney with
21 the law firm of Carney, Badley, Smith & Spellman, here
22 in Seattle, and I'm here today on behalf of AXA, the AXA
23 Group. And specifically, have prepared and submitted to
24 Mr. Stern earlier today a letter prepared by
25 Mr. Philippe Ferras of AXA. And he has asked me to read
0153
1 just a couple of pages into the record, if that would
2 suit you.
3 COMMISSIONER SENN: It would be okay, but
4 you don't have a French accent.
5 MR. SORENSEN: I don't have a French
6 accent, you're correct.
7 I think there is information here that responds,
8 at least in part, to many of the inquiries that you have
9 advanced to other companies, and to the extent that you
10 have more specific questions, I'd be pleased to advance
11 those back to Mr. Ferras with our commitment to be
12 responsive as soon as we possibly can.
13 COMMISSIONER SENN: Okay.
14 MR. SORENSEN: "The AXA Group is pleased to
15 offer these comments in support of your proposed
16 regulation that would allow for additional time for
17 insurers and the International Commission to continue
18 their efforts to evaluate and resolve insurance claims
19 related to the victims of Holocaust. Your proposed
20 regulation would defer the application of Chapter 48.104
21 RCW for insurers participating in the Commission until
22 June 30, 2001. In view of the progress made by the
23 International Commission on Holocaust Era Insurance
24 Claims, the ICHEIC, over recent months, together with
25 the direct cooperation and support of the AXA Group and
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1 other insurers, we believe that deferring the
2 application of Washington's Holocaust Victim Insurance
3 Relief Act of 1999 is a reasonable step by your office
4 to allow this international effort to remain focused on
5 its work and move forward.

6 "I regret that my current work with the ICHEIC
7 and related activities in Europe have precluded my
8 personal appearance at your hearing to consider this
9 proposed rule. You will recall, however, that I
10 attended your hearing in Seattle last January, and
11 presented comments on behalf of the AXA Group with
12 regard to the work of the ICHEIC and our commitment to
13 that process. We remain actively working with the
14 ICHEIC, and current activities here have unfortunately
15 made it impossible for me to come to Seattle at this
16 time. I'm now completing work with regard to an
17 ICHEIC-appointed audit of insurance company activities,
18 and processes. AXA is the first insurer of the ICHEIC
19 to enter into the audit and peer review process. We
20 will be attending a debriefing session with the Audit
21 Mandate Support Group in Paris during the week of
22 November 27. My responsibilities to the ICHEIC and the
23 current audit require me to stay in Europe at this time.
24 As you know, we have made efforts to arrange for my
25 participation at your hearing today via conference call

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1 or teleconference. Unfortunately, the State apparently
2 does not have the facilities necessary to allow for
3 these options. Thus, my comments on these matters are
4 provided to you in this letter.

5 "RCW 48.104.090, provides that the Insurance
6 Commissioner may suspend the application of this chapter
7 to any insurer that is participating in the
8 International Commission process in good faith, and is
9 working through the International Commission to resolve
10 all outstanding claims with offers of fair settlements
11 in a reasonable time frame. I'm pleased to report to
12 you that the ICHEIC process is working well, and that
13 the AXA Group continues to directly participate in good
14 faith with the ICHEIC to identify claims and prepare
15 them for settlement. Thus, we would encourage your
16 adoption of the proposed regulation that is the subject
17 of this hearing.

18 "As noted above, the ICHEIC has made
19 considerable progress so far this year. In July, 2000,
20 all interested parties entered a settlement with regard
21 to the German Foundation Initiative. This is a
22 remarkable agreement, and a major step in ICHEIC's
23 efforts to bring justice to Holocaust victims who hold
24 unpaid and uncompensated insurance policies in Germany.
25 The ICHEIC is in receipt of a group of claims relating

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1 to AXA, primarily concentrated in AXA's German
2 subsidiary, AXA Colonia Konzern. In the ICHEIC's
3 Fast-Track claims process, claims allocated to AXA have
4 been exceedingly low. Out of 908 claims distributed,
5 only 24 have been allocated to AXA. This represents 2.6
6 percent of claims distributed. Notably, all 24 of AXA's
7 claims were related to AXA's German operations. None of
8 these claims relate to AXA's operations elsewhere in
9 Europe, including France and Belgium, where AXA held
10 major market shares when the Nazis invaded these

11 countries. Assuming final arrangements are reached
12 between the ICHEIC and the German market to implement
13 the commitments of the settlement of the German
14 Foundation Initiative, then all potential claims
15 relating to AXA German operations will be finalized in a
16 fair and transparent manner. This would also resolve
17 the vast majority of AXA's overall potential exposure.

18 "At the recent meeting of the ICHEIC in Rome on
19 November 15 and 16, a detailed agreement was announced
20 relating to Generali and Holocaust survivor advocacy
21 groups. At that time, the chairman of the ICHEIC
22 expressed confidence that similar agreements could soon
23 be reached with other insurers, including AXA. It is
24 important to note that we have been in regular contact
25 with representatives of the Holocaust survivor group

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1 with regard to possible global settlement. With the
2 announcement of the Generali agreement these discussions
3 will become even more active.

4 "One of the major goals of the ICHEIC has been
5 to give to any potential claimant an opportunity to
6 claim or at least to inquire if he or she may have a
7 potential claim. In that respect, the ICHEIC process
8 has been remarkably successful, and warrants the full
9 support of all concerned. As reported at its recent
10 meeting in Rome, the ICHEIC Call Centre has received
11 143,000 calls with regard to possible claims and other
12 matters. As a result of these inquiries, ICHEIC's
13 administrative offices in Eastgate, of the United
14 Kingdom, has received over 58,000 claimed inquiries.
15 This result shows the effectiveness of ICHEIC's outreach
16 program, a program financed by AXA and other
17 participating insurers.

18 "Most of these claims or inquiries relate to
19 policies which have been issued in Eastern Europe or
20 relate to slave labor. The data show that only 14.2
21 percent of these cases relate to policies issued in
22 Western European countries, mostly in Germany, and 61.2
23 percent relate to Eastern European countries. The
24 remaining cases relate to policies issued in unspecified
25 countries, or to slave labor. These cases have not yet

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1 been processed.

2 "With respect to the claims and inquiries
3 currently received, 21,780 have already been
4 distributed. AXA was named as the insurer in 58 of
5 these, 0.27 percent of total distributed. All of these
6 58 AXA claims relate to companies which are presently
7 part of AXA Colonia in Germany. It is appropriate to
8 note that AXA has been found to have very limited
9 exposure in the claims review to date, and we
10 consequently view potential global exposure to be
11 minimal, as we viewed and claimed it from the very
12 beginning of the ICHEIC process.

13 "AXA has gone to great lengths to inform
14 potential claimants about the process for submitting a
15 claim for payment. Where AXA has its main exposure in

16 Germany, its operational subsidiary, AXA Colonia, is
17 offering to deliver a CD-ROM to the ICHEIC containing a
18 list of the names of the policyholders which can be
19 matched with the Yad Vashem list of Holocaust victims.
20 AXA is ready to assist with the rapid implementation of
21 this matching process as a complement to AXA's existing
22 list of German unpaid or uncompensated life insurance
23 policies of Holocaust victims. The existing list was
24 established pursuant to the authority and supervision of
25 insurance regulatory authority in Germany. It was

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1 published by the ICHEIC and submitted to the Washington
2 State Office of the Insurance Commissioner and other
3 state insurance departments. In sum, the AXA Group is
4 actively working with the ICHEIC to identify and resolve
5 claims for which it is responsible.

6 "The ICHEIC process is terrifically important.
7 Chairman Eagleburger in an October 11, 2000 letter to
8 various members of the United States Congress stated
9 that the ICHEIC is on a proper track to respond
10 effectively to the insurance problems of the Holocaust
11 Era. A copy of that letter has been sent to members of
12 the NAIC. Mr. Eagleburger went on to note that the
13 founding member companies of the ICHEIC, including AXA,
14 are fully cooperating in the ICHEIC process.

15 "In light of these comments, the AXA Group
16 believes that there is great merit and justification in
17 the proposed rule currently under consideration by the
18 Office of the Insurance Commissioner. The ICHEIC should
19 be given the latitude to continue its work to
20 completion. RCW 48.104.090 allows discretion to the
21 Insurance Commissioner to suspend application of the
22 Washington act where it is found that an insurer is
23 working with the International Commission in good faith
24 to resolve claims on a timely basis. The AXA Group
25 believes it continues to meet that test and the rules

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1 should be approved."

2 Sincerely, Philippe Ferras, Executive Vice
3 President of AXA, Coordinator for Holocaust, and
4 Permanent Representative of AXA to the ICHEIC.

5 COMMISSIONER SENN: We did not -- in the
6 second -- the third paragraph from the bottom, you said
7 that the existing list was established pursuant to the
8 authority and supervision of the Insurance Regulatory
9 Authority in Germany, it was published by the ICHEIC and
10 submitted to the Washington State Office of the
11 Insurance Commissioner. We didn't get it.

12 MR. SORENSEN: It should have been. I
13 spoke with Mr. Ferras this morning, and this was
14 confirmed in his records. If you do not have it, I'll
15 make inquiry and make it a point that you get it.

16 COMMISSIONER SENN: How many names are on
17 that list?

18 MR. SORENSEN: I don't know, but we can
19 respond.

20 COMMISSIONER SENN: When Mr. Ferras was

21 here in January he told us that AXA and its subsidiaries
22 had -- its German subsidiaries had a list of 500,000
23 names, which is by far the biggest list we've heard
24 about. Has that list been submitted to Yad Vashem, or
25 what's the status of that list?

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1 MR. SORENSEN: I don't know, Commissioner
2 Senn. I did take copious notes of the specific
3 inquiries advanced to prior companies at the table, and
4 I can assure you that those inquiries will be advanced
5 to AXA for response.

6 COMMISSIONER SENN: Okay. Thank you, Mel.

7 MR. SORENSEN: Thank you very much.

8 COMMISSIONER SENN: Is there any -- I have
9 no other -- I know that Mr. Birn had left, and he was
10 here to testify. Anybody else that would like to make a
11 few comments? If not, I thank you all for --

12 MR. LEFKIN: Mrs. Senn, I just want to make
13 for the public record, I don't know you if you have a
14 copy of the statement of interest that was filed by the
15 U.S. Government in the California litigation. If you
16 don't, I'd be delighted to provide that to you.

17 COMMISSIONER SENN: We actually do have a
18 copy of that.

19 All right. I thank you all for coming and
20 sitting through, and it's about 5:00 o'clock. We're
21 done. Thank you. This meeting is adjourned.

22 (At 5:00 p.m. the proceedings
23 were adjourned.)
24
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1
2 C E R T I F I C A T E

3
4 STATE OF WASHINGTON)
) ss.
5 COUNTY OF KING)
6

7 I, the undersigned officer of the Court, under my
8 commission as a Notary Public in and for the State of
9 Washington, hereby certify that the foregoing hearing was
10 taken stenographically before me and thereafter transcribed
11 under my direction; that the transcript of the hearing is a
12 full, true and correct transcript; that I am neither attorney
13 for, nor a relative or employee of any of the parties;
14 further, that I am not a relative or employee of any attorney
15 or counsel employed by the parties hereto, nor financially
16 interested in its outcome.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 affixed my Official Seal this 29th day of November, 2000.
19
20
21
22

23 Notary Public in and for the State
of Washington, residing at Edmonds.

24
25

My Commission expires 1/15/03.